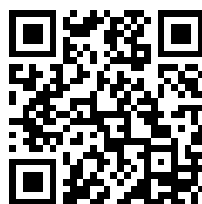

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DOCUMENTS ON
BRITISH
FOREIGN POLICY
1919-1939

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DOCUMENTS ON BRITISH FOREIGN POLICY
1919-1939

Second Series Volume VIII

Chinese Questions
1929-1931

PREFACE

THIS volume was prepared and mainly edited by Sir Llewellyn Woodward before his retirement from the editorship. I have concluded this editing and have seen the volume through the press.

The present volume begins the documentation, in the Second Series of this Collection, of British foreign policy in the Far East. The first seven chapters cover the period from April 1929 to January 1932 and illustrate the protracted Anglo-Chinese negotiations for the rendition by Great Britain of the leased territory of Weihaiwei and the surrender of British extra-territorial rights in China. These negotiations afford an interesting study in diplomatic technique, and reflect the extent to which His Majesty's Government set an example in taking account of the development of Chinese national consciousness.

Chapter VII explains the discontinuation of the negotiations for the surrender of British extraterritorial rights in China, in the light of the Far Eastern Crisis which had begun with the Japanese occupation of Mukden on the night of September 18-19, 1931. Chapter VIII illustrates the background in Manchuria and Korea before that event, and Chapters IX-XII cover the course of the crisis until the decision of the Council of the League of Nations on December 10, 1931, to appoint a commission of enquiry.

The general editorial method is the same in this volume as in previous ones; in particular, in this and succeeding volumes on the Far East, the rendering of Chinese names and the chronological arrangement of telegrams follow the principles explained in the Note to the Preface of Volume VIII of the Third Series.

In compiling the present volume use has been made of the personal papers of the first Marquess of Reading and of Lord, then Sir John, Simon, respectively filed in the archives of the Foreign Office under references Confidential/General/348 and Confidential/General/349/1-7.

The conditions under which the Editors accepted the task of producing this Collection, namely, access to all papers in the Foreign Office archives and freedom in the selection and arrangement of documents, continue to be fulfilled.

The Librarian and the staff of the Foreign Office Library have again afforded their valuable assistance, for which the Editors are much indebted. They are also most grateful to Miss M. E. Lambert, M.A., for her collaboration as Assistant Editor, and to Mrs. J. D. Ede, M.A., D.Phil., and Miss I. Bains, M.A., for their help in the editorial work of this volume.

ROHAN BUTLER

August 21, 1958

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CHAPTER I

Chinese note of April 27, 1929, with regard to the abolition of extra-territorial rights: negotiations with the Chinese Government on the rendition of Weihaiwei (April 27-June 28, 1929)

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
2 SIR M. LAMPSON Peking Tel. No. 371	Apr. 29	Repeats telegram No. 83 of April 27 from his personal representative with the National Govt., Mr. Newton, reporting receipt of note from Chinese Govt. requesting early relinquishment of extraterritorial rights in China.	27
3 CHINESE CHARGÉ D'AFFAIRES London	May 2	Note requesting the relinquishment by H.M.G. of British extraterritorial rights in China.	27
4 SIR M. LAMPSON Peking Tel. No. 416	May 8	Refers to No. 2 and reports that he has sent formal acknowledgement of note: summarizes discussion of note on May 7 with French, U.S. and Netherland colleagues.	29
5 To SIR M. LAMPSON Peking Tel. No. 187	May 8	Discusses question of reopening negotiations for rendition of Weihaiwei.	30
6 SIR M. LAMPSON Peking Tel. No. 423	May 9	Refers to No. 4 and reports that meeting of same Ministers decided to recommend U.S. Minister's draft reply to Chinese note on extraterritoriality.	31
7 To SIR M. LAMPSON Peking Tel. No. 200	May 13	Discusses question of raising British Legation in China to Embassy as requested by Chinese M.F.A., and suggests answer to be given to Dr. Wang after consulting interested colleagues. <i>Note 3. Further correspondence on this subject.</i>	32
8 To SIR M. LAMPSON Peking Tel. No. 202	May 14	Refers to Nos. 4 and 6 and suggests further material for incorporation in draft reply on extraterritoriality.	33
9 To SIR J. TILLEY Tokyo No. 221	May 15	Records conversation with Japanese Ambassador regarding policy of interested Powers in view of Chinese requests for abolition of extraterritoriality and for establishment of embassies in China.	34
10 SIR M. LAMPSON On tour No. 1 Tour	May 15	Refers to Nos. 4 and 6 and transmits fuller account of meetings of interested Ministers on May 7 and 9 regarding Chinese note on extraterritoriality: discusses scheme put	35

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
		forward by Netherland Minister for progressive abandonment of extraterritoriality on geographical lines (enclosure 3): reports on further meeting on May 13 at which Japanese representative present: transmits copy of note put forward by French judge at Shanghai discussing Netherland Minister's scheme.	
11 To Mr. INGRAM Peking Tel. No. 204	May 16	Message for Sir M. Lampson referring to No. 8 and transmitting instructions for text of draft reply to Chinese note contained in No. 12 to be communicated to interested colleagues.	44
12 To Mr. INGRAM Peking Tel. No. 205	May 16	Message for Sir M. Lampson referring to No. 11 and transmitting text of draft reply to Chinese note on extraterritoriality.	45
13 To Mr. GARSTIN Shanghai Tel. No. 17	May 16	Message for Sir M. Lampson discussing situation in International Settlement at Shanghai and indicating line to be taken in conversations with members of British community there.	48
14 To Mr. GARSTIN Shanghai Tel. No. 18	May 17	Message for Sir M. Lampson stating that H.M.G. are ready to proceed with negotiations for rendition of Weihaiwei as soon as Chinese Govt. are in effective control of Shantung.	49
15 To Mr. GARSTIN Shanghai Tel. No. 20	May 17	Message for Sir M. Lampson referring to No. 11: French Govt. anxious that Japanese Govt. should state their views on extraterritoriality to Chinese Govt. simultaneously with other Powers.	50
16 To Mr. INGRAM Peking Tel. No. 210	May 17	Message for Sir M. Lampson referring to No. 12: draft reply on extraterritoriality explained to Japanese Ambassador on May 15.	50
17 SIR M. LAMPSON Shanghai Tel. No. 7	May 20	Refers to Nos. 8, 11 and 12 and suggests one amendment to draft reply: Mr. Ingram has been instructed to communicate text to interested colleagues and Japanese Chargé d'Affaires.	50
18 SIR J. TILLEY Tokyo Tel. No. 114	May 21	Refers to No. 11 and reports that Vice-M.F.A. has informed him that Japanese Chargé d'Affaires at Peking has been instructed to communicate Japanese Govt.'s views on extraterritoriality to Chinese Govt.	51
19 SIR M. LAMPSON Shanghai Tel. No. 10	May 21	Reports conversation with Chinese M.F.A. on May 20 regarding Weihaiwei: Dr. Wang unwilling to sign 1924 draft treaty without modifications: suggests course of action.	51
20 MR. INGRAM Peking Tel. No. 26 to Shanghai Tel. No. 467 to F.O.	May 22	Text of British draft reply on extraterritoriality with explanation on lines of No. 11 was communicated to Japanese Chargé d'Affaires on May 21: reports ensuing conversation.	53

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
21	MR. INGRAM Peking Tel. No. 29 to Shanghai Tel. No. 469 to F.O.	May 23	Refers to No. 20 and reports meeting with interested colleagues when instructions in No. 11 carried out.	54
22	MR. INGRAM Peking Tel. No. 30 to Shanghai Tel. No. 470 to F.O.	May 23	Refers to No. 21 and reports comments of Japanese Chargé d'Affaires on British draft reply on extraterritoriality.	54
23	TO SIR J. TILLEY Tokyo Tel. No. 88	May 23	Refers to No. 18: instructions to communicate text of British draft reply on extraterritoriality to Vice-M.F.A.	55
24	TO MR. GARSTIN Shanghai Tel. No. 28	May 25	Message for Sir M. Lampson referring to No. 14: instructions to inform Dr. Wang that if he insists on modifying 1924 draft treaty on Weihaiwei, responsibility for delay in rendition will be his.	55
25	SIR M. LAMPSON Shanghai Tel. No. 38 to Peking Tel. No. 31 to F.O.	May 26	Instructs Mr. Newton to enquire individually of principal colleagues how they would wish to modify British draft reply on extraterritoriality.	56
26	MR. NEWTON Peking Tel. No. 49 to Nanking Tel. No. 479 to F.O.	May 27	Message for Sir M. Lampson referring to No. 25 and reporting views of Netherland, French, and U.S. colleagues.	56
27	TO MR. HEWLETT Nanking Tel. No. 11	May 31	Message for Sir M. Lampson referring to No. 26 and authorizing presentation of British note on extraterritoriality to Chinese Govt.	57
28	SIR M. LAMPSON Nanking Tel. No. 45	May 31	Reports discussion of British draft note on extraterritoriality at meeting of Corps Diplomatique on May 30.	57
29	SIR M. LAMPSON Nanking Tel. No. 46	May 31	Refers to No. 28 and reports conversation with Japanese Minister regarding Japanese Govt.'s attitude towards the problem of extraterritoriality in China.	58
30	SIR J. TILLEY Tokyo No. 219	May 31	Refers to No. 15 and reports conversation with Vice-M.F.A. on May 21 regarding Japanese co-operation with the other Powers in replying to the Chinese note on extraterritoriality.	59
31	SIR M. LAMPSON Nanking Tel. No. 59	June 3	Reports conversation on June 2 with Dr. Wang regarding Weihaiwei: substance of No. 24 communicated to him.	60
32	SIR J. TILLEY Tokyo Tel. No. 123	June 4	Refers to No. 30 and reports further conversation with Mr. Yoshida concerning Japanese policy regarding extraterritoriality.	61
33	SIR M. LAMPSON Nanking Tel. No. 66	June 4	Reports conversation with Japanese Minister on June 1 regarding British and Japanese negotiations for commercial treaties with China, extraterritoriality and co-operation between the two Legations.	62
			<i>Note 1.</i> Negotiations for an Anglo-Chinese commercial treaty.	62

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
34 SIR M. LAMPSON Nanking Tel. No. 67	June 4	Refers to No. 33 and reports further conversation on June 3 with Japanese Minister.	63
35 SIR M. LAMPSON Nanking Tel. No. 71	June 4	Reports friendly conversation on June 3 with General Chiang Kai-shek: present Chinese Govt. evidently desire good relations with H.M.G.	63
36 SIR M. LAMPSON Nanking Tel. No. 72	June 5	Reports conversation with Dr. Wang Chung-hui on June 3 regarding extra-territoriality.	64
37 SIR M. LAMPSON Nanking Tel. No. 75	June 5	Reports conversation on June 4 with Minister of Finance regarding relations with Russia: refers to No. 35 and suggests despatch of friendly message from H.M.G. to Chinese Govt.	65
38 To MR. HEWLETT Nanking Tel. No. 15	June 6	Message for Sir M. Lampson referring to No. 28: discusses amendment suggested by Japanese Minister to British draft reply on extraterritoriality and considers general question of co-operation with Japan in China.	66
39 To SIR E. HOWARD Washington Tel. No. 274	June 6	Refers to No. 38: instructions to discuss fully question of draft replies on extra-territoriality with U.S. Govt.	67
40 SIR M. LAMPSON Nanking Unnumbered	June 7	Refers to No. 13 and transmits general observations on the question of the future of the International Settlement at Shanghai, with particular reference to the problems of Chinese representation on the Municipal Council, the Provisional Court and extra-settlement roads.	68
41 SIR E. HOWARD Washington Tel. No. 272	June 9	Reports instructions in No. 39 carried out on June 8: Secretary of State raised question of unilateral abolition of extraterritoriality by China: question of embassies in China also discussed.	82
42 JAPANESE AMBASSADOR London	June 10	<i>Aide-mémoire</i> expressing Japanese Govt.'s thanks for communication of British draft reply to Chinese Govt., and setting forth views of Japanese Govt. on extraterritoriality.	83
43 SIR J. TILLEY Tokyo No. 236	June 11	Reports conversation on June 7 with M.F.A. regarding Anglo-Japanese co-operation in China, extraterritoriality and the question of embassies in China.	84
44 SIR J. TILLEY Tokyo Tel. No. 134	June 13	Refers to No. 42 and reports conversation on June 13 with Vice-M.F.A. regarding British draft reply on extraterritoriality.	86
45 To MR. GILES Hankow Tel. No. 6	June 13	Message for Sir M. Lampson expressing good wishes of H.M.G. for Chinese Govt.	87
46 To MR. GILES Hankow Tel. No. 5	June 13	Message for Sir M. Lampson referring to No. 37: impossible for H.M.G. to advise on Chinese relations with Russia: No. 45 contains a statement of H.M.G.'s sympathetic attitude to China which might be shown to members of Chinese Govt.	88

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
47 SIR M. LAMPSON Nanking Tel. No. 101	June 21	Reports interview on June 21 with Dr. Wang regarding Chinese objections to negotiating rendition of Weihaiwei on basis of 1924 draft.	88
48 SIR M. LAMPSON Nanking Tel. No. 105	June 22	Refers to No. 47 and reports conversations with Dr. Wang and Admiral Chen on June 21: Chinese proposals modifying 1924 draft were discussed at further interview with Dr. Wang on June 22.	89
49 SIR M. LAMPSON Nanking Tel. No. 107	June 22	Message for Sir V. Wellesley suggesting possible basis for agreement on Weihaiwei.	91
50 SIR V. WELLESLEY Foreign Office	June 24	Record of conversation with the Japanese Ambassador to whom copy of No. 56 was communicated: British draft reply to Chinese Govt. on extraterritoriality also discussed.	92
51 SIR M. LAMPSON Nanking Tel. No. 116	June 25	Reports enquiry by Dr. Wang whether instructions on proposals in No. 48 and on Boxer Indemnity negotiations had been received.	93
52 M. CAMBON London	June 25	Letter to Mr. Ashton-Gwatkin communicating text of French Govt.'s reply to the Chinese note on extraterritoriality.	93
53 SIR M. LAMPSON Nanking Tel. No. 117	June 26	Message for Sir V. Wellesley referring to No. 51 and commenting on Dr. Wang's attitude in the negotiations on Weihaiwei.	95
54 TO MR. HEWLETT Nanking Tel. No. 21	June 26	Message for Sir M. Lampson regarding his negotiations with the Chinese Govt. respecting the disposal of the British share of the Boxer Indemnity.	95
55 TO MR. INGRAM Peking Tel. No. 235	June 27	Refers to Nos. 12 and 57 and transmits modifications to British draft reply on extraterritoriality as suggested to Mr. Matsudaira (see No. 50).	96
56 TO MR. INGRAM Peking Tel. No. 236	June 27	Refers to No. 57 and transmits text of memorandum handed to Mr. Matsudaira on June 24.	96
57 TO MR. INGRAM Peking Tel. No. 234	June 27	Refers to No. 42 and comments on No. 56 which contains reply to Japanese <i>aide-mémoire</i> on extraterritoriality.	98
58 SIR M. LAMPSON Nanking Tel. No. 120	June 28	Reports on interview with Dr. Wang who was told that H.M.G. would require more time to consider Chinese proposals on Weihaiwei: text of No. 54 regarding Boxer Indemnity was also read to Dr. Wang.	98
59 SIR M. LAMPSON Nanking Tel. No. 121	June 28	Refers to No. 58 and regrets that negotiations were not more successful.	100
60 SIR M. LAMPSON Nanking Unnumbered	June 28	Transmits detailed report on his negotiations with Dr. Wang regarding the rendition of Weihaiwei from May 20 to June 28.	100

CHAPTER II

Further correspondence with regard to the demands of the Chinese Government for (i) the abolition of extraterritorial rights in China; (ii) the rendition of Weihaiwei (July 2–November 7, 1929)

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
61	TO SIR M. LAMPSON Weihaiwei Tel. Unnumbered	July 2	Refers to Nos. 47, 48 and 51: discusses advantages of breaking off Weihaiwei negotiations or renouncing Weihaiwei unconditionally in exchange for permanent possession of Kowloon Leased Territories.	109
62	TO SIR M. LAMPSON Peking Tel. No. 241	July 6	Refers to No. 59 and congratulates on useful work done during tour in south.	110
63	SIR M. LAMPSON Peking Tel. No. 534	July 8	Refers to No. 61: considers proposed bargain over Kowloon would be unacceptable to Chinese Govt.: discusses suggestions for obtaining essential British requirements at Weihaiwei.	110
64	TO SIR M. LAMPSON Peking No. 693	July 8	Records conversation with Chinese Chargé d'Affaires regarding negotiations on Weihaiwei and attitude of H.M.G. to National Govt. of China.	112
65	SIR M. LAMPSON Peking Tel. No. 559	July 12	Suggests amendment to British draft reply on extraterritoriality in view of Wiltshire case.	113
66	SIR M. LAMPSON Peking Tel. No. 566	July 15	Reports discussion with U.S. and Japanese Ministers on July 12 regarding extraterritoriality: the three Ministers favoured (a) early despatch of replies to Chinese note, and (b) adoption of united front against any unilateral cancellation of extraterritoriality by China.	113
67	SIR V. WELLESLEY Foreign Office	July 16	Record of conversation with Mr. Atherton of U.S. Embassy who enquired whether H.M.G. contemplated change of policy towards China, especially on extraterritoriality.	115
68	TO SIR E. HOWARD Washington Tel. No. 332	July 18	Refers to No. 66: instructions to ascertain views of U.S. Govt. on points (a) and (b) raised therein.	116
69	TO SIR J. TILLEY Tokyo Tel. No. 131	July 18	Refers to No. 66: instructions to ascertain intentions of Japanese Govt. in regard to point (a).	117
70	SIR V. WELLESLEY Foreign Office	July 18	Record of conversation with Mr. Matsudaira who was informed of substance of Nos. 66, 68 and 69.	117
71	TO SIR M. LAMPSON Peking Tel. No. 257	July 20	Refers to No. 65 and rejects suggested amendment to British draft reply on extraterritoriality.	117
72	SIR J. TILLEY Tokyo Tel. No. 160	July 22	Refers to No. 69: M.F.A. hopes to make decision in few days.	118
73	SIR E. HOWARD Washington Tel. No. 322	July 23	Refers to Nos. 66 and 68 and reports conversation with Secretary of State on July 23 when instructions carried out.	119

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
74 SIR J. PRATT Foreign Office	July 24	Memorandum discussing the situation in the event of a possible unilateral abolition of extraterritorial rights by the Chinese Govt.	120
75 SIR V. WELLESLEY Foreign Office	July 25	Record of conversation with M. de Fleuriau regarding the advisability of an early reply to the Chinese note on extraterritoriality.	121
76 SIR J. TILLEY Tokyo Tel. No. 165	July 26	Refers to No. 72 and reports conversation with M.F.A. regarding British draft reply on extraterritoriality: Japanese Govt. propose to make verbal representations.	122
77 To SIR M. LAMPSON Peking Tel. No. 269	July 31	Refers to Nos. 68 and 73: instructions to inform U.S. and Japanese colleagues that amended British draft reply on extraterritoriality (see No. 55) will be sent in.	123
78 To SIR M. LAMPSON Peking Tel. No. 271	July 31	Refers to Nos. 77 and discusses proposal by French Govt. for joint action to forestall unilateral abolition of extraterritoriality by Chinese Govt.	123
79 To SIR J. TILLEY Tokyo Tel. No. 150	July 31	Refers to Nos. 72, 76 and 77: instructions to ascertain that M.F.A. has no objections to British draft reply on extraterritoriality.	124
80 SIR V. WELLESLEY Foreign Office	July 31	Record of conversation with Mr. Matsudaira regarding the latest developments in regard to extraterritoriality and in the Sino-Soviet dispute over the Chinese Eastern Railway.	124
81 SIR J. TILLEY Tokyo Tel. No. 175	Aug. 2	Refers to No. 79: reports conversation regarding extraterritoriality with M.F.A. who has no objection to British draft note.	126
82 SIR M. LAMPSON Peking Tel. No. 623	Aug. 4	Refers to No. 77 and reports that his colleagues have agreed that British note on extraterritoriality should be presented on August 12: suggests alternative to action proposed in No. 78.	127
83 SIR M. LAMPSON Peking Tel. No. 629	Aug. 6	Message for Sir V. Wellesley regarding possible difficulty when Weihaiwei negotiations reopened.	128
84 To SIR M. LAMPSON Peking Tel. No. 276	Aug. 7	Refers to No. 63: authorization to lay new proposals on Weihaiwei before Chinese Govt.: transmits various points for use in negotiations.	128
85 To SIR M. LAMPSON Peking Tel. No. 280	Aug. 10	Message from Sir V. Wellesley discussing difficulty raised in No. 83 regarding Weihaiwei negotiations.	130
86 SIR M. LAMPSON Peking	Aug. 10	Text of note presented to Chinese Govt. in reply to their note of April 27 regarding British extraterritorial rights in China.	130
87 SIR M. LAMPSON Peitaiho	Aug. 11	Letter to Sir V. Wellesley and notes by Mr. Teichman regarding the probable consequences of unilateral abolition of extraterritoriality by the Chinese Govt.	133

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
88	SIR M. LAMPSON Peking Tel. No. 672	Aug. 18	Refers to No. 82 and reports communication from Japanese colleague regarding possible warning to Chinese Govt. on unilateral abolition of extraterritoriality and transmits agreed views of interested Ministers thereon.	140
89	To SIR M. LAMPSON Peking Tel. No. 292	Aug. 23	Doubts advisability of warning referred to in No. 88; decision thereon will be taken later.	141
90	SIR M. LAMPSON Peking Tel. No. 684	Aug. 23	Reports correspondence between Chinese M.F.A. and interested Ministers regarding publication of notes on extraterritoriality.	142
91	SIR M. LAMPSON Peking Tel. No. 698	Aug. 26	Repeats Mr. Aveling's telegram No. 156 of August 21; Dr. Wang told him confidentially that Chinese Govt. intended to abolish extraterritoriality from January 1, 1930, by stages.	143
92	SIR M. LAMPSON Peking Tel. No. 700	Aug. 27	Discusses proposed warning to Chinese Govt. regarding unilateral abolition of extraterritoriality and reports U.S. and Japanese views thereon; comments on No. 91.	144
93	To SIR M. LAMPSON Peking Tel. No. 296	Aug. 28	Refers to No. 90; instructions regarding the publication of No. 86.	145
94	To SIR M. LAMPSON Peking No. 867	Sept. 3	Refers to No. 40 and transmits memorandum by Sir J. Pratt regarding the problem of Shanghai.	146
95	To SIR M. LAMPSON Peking No. 879	Sept. 6	Transmits memorandum by Sir J. Pratt regarding the China Consortium and future British policy relative thereto.	154
96	SIR M. LAMPSON Peking Tel. No. 724	Sept. 7	Repeats Nanking telegram No. 166 of September 6 reporting receipt of note from Chinese Govt. in reply to No. 86 and requesting immediate discussions on arrangements for abolition of British extraterritorial rights in China.	165
97	To SIR M. LAMPSON Peking Tel. No. 322	Sept. 17	Transmits summary of main conclusions of enclosure in No. 94.	166
98	SIR M. LAMPSON Peking No. 1357	Sept. 18	Transmits copy of Chinese Govt.'s note of September 6 regarding extraterritoriality in reply to No. 86.	167
99	SIR M. LAMPSON Peking Tel. No. 781	Sept. 29	Refers to Chinese note of September 6 on extraterritoriality and suggests that in reply Chinese Govt. should be invited to put forward proposals.	170
100	To SIR M. LAMPSON Peking Tel. No. 339	Sept. 30	Refers to No. 99 and agrees in suggestion.	170
101	SIR M. LAMPSON Peking Tel. No. 805	Oct. 11	Refers to No. 100 and reports that six interested heads of Legation agreed to recommend that replies to Chinese note of September 6 should be on lines suggested in No. 99.	170

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
102	TO SIR M. LAMPSON Peking Tel. No. 357	Oct. 19	Refers to No. 101 and discusses opening of negotiations with Chinese Govt. on extraterritoriality.	171
103	TO SIR M. LAMPSON Peking Tel. No. 358	Oct. 19	Refers to No. 102 and transmits text of draft reply to Chinese Govt.'s note of September 6.	172
104	SIR J. PRATT Foreign Office	Oct. 22	Memorandum discussing alternative methods for abolition of extraterritoriality in China.	173
105	SIR M. LAMPSON Peking Tel. No. 843	Oct. 25	Refers to No. 102: discusses policy in negotiating with Chinese Govt. on extraterritoriality and asks for instructions.	175
106	SIR M. LAMPSON Peking Tel. No. 844	Oct. 25	Refers to Nos. 103 and 105 and comments on draft note to Chinese Govt.	177
107	SIR M. LAMPSON Peking Tel. No. 845	Oct. 25	Refers to No. 106 and suggests amendments to draft note to Chinese Govt. (No. 103).	177
108	SIR M. LAMPSON Peking Tel. No. 850	Oct. 26	Refers to No. 105 and reports that U.S. Minister has received instructions to address note to Chinese Govt.	178
109	TO SIR M. LAMPSON Peking Tel. No. 372	Oct. 29	Refers to Nos. 106, 107, and 108: draft note (No. 103) as amended in No. 107 should be presented to Dr. Wang with certain verbal explanations.	178
110	TO SIR M. LAMPSON Peking No. 999	Oct. 29	Records interview on October 16 between Dr. Wang Chung-hui and Dr. Chen and Mr. Orde and Sir J. Pratt: Dr. Wang urged that H.M.G. should enter upon immediate negotiations with the Chinese Govt. on extraterritoriality.	179
111	SIR V. WELLESLEY Foreign Office	Oct. 31	Record of conversation with the Chinese Minister: Dr. Sze was told that surrender of extraterritoriality should be gradual and subject to adequate safeguards.	180
112	SIR V. WELLESLEY Foreign Office	Oct. 31	Record of conversation with the Chinese Minister: it was explained to Dr. Sze why no progress had been made in the negotiations for the rendition of Wei-haiwei.	181
113	SIR M. LAMPSON Peking Tel. No. 874	Nov. 1	Repeats Mr. Aveling's telegram No. 216 referring to No. 106 and reporting conversation on Oct. 30 with Dr. Wang who enquired whether H.M.G. were willing to enter into negotiations for the abolition of extraterritoriality.	182
114	SIR M. LAMPSON Peking Tel. No. 876	Nov. 2	Refers to No. 109 and reports that note will be sent in on November 1: comments on proposed verbal explanations: summarizes French and Netherland Ministers' notes.	183
115	TO SIR M. LAMPSON Peking Tel. No. 379	Nov. 2	Refers to No. 105: instructions to discuss views expressed in No. 116 with interested colleagues.	184

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
116	To SIR M. LAMPSON Peking Tel. No. 380	Nov. 2	Refers to No. 115 and sets forth general principles for guidance in negotiations on abolition of extraterritoriality: rejects geographical method of approach and proposes transfer by stages of jurisdiction in civil cases, criminal cases and personal status matters, subject to adequate safeguards.	185
117	To SIR M. LAMPSON Peking Tel. No. 381	Nov. 4	Refers to Nos. 115 and 116 and transmits information regarding likely attitude of Chinese Govt. in forthcoming extraterritoriality negotiations.	188
118	To SIR M. LAMPSON Peking Tel. No. 385	Nov. 6	Discusses suggestion by Lord Cecil that question of extraterritoriality should be considered in League Assembly under Article 19 of Covenant.	189
119	SIR M. LAMPSON Peking No. 1599	Nov. 6	Transmits copy of note of November 1 to Chinese Govt. in reply to their note of September 6 regarding extraterritoriality.	189
120	SIR M. LAMPSON Peking Tel. No. 889	Nov. 7	Refers to No. 114 and repeats Mr. Aveling's telegram No. 225 of November 5 reporting presentation of note on extraterritoriality to Dr. Wang and ensuing conversation.	191

CHAPTER III

Further correspondence with regard to the demands of the Chinese Government for the abolition of extraterritorial rights in China (November 9, 1929-January 6, 1930)

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
121	SIR M. LAMPSON Peking Tel. No. 894	Nov. 9	Refers to No. 115 and reports discussion with interested colleagues of proposals on extraterritoriality in No. 116.	192
122	SIR V. WELLESLEY Foreign Office	Nov. 11	Record of conversation with Chinese Minister regarding procedure in negotiations on extraterritoriality.	194
123	SIR M. LAMPSON Peking Tel. No. 901	Nov. 12	Refers to No. 120 and reports information regarding venue of extraterritoriality negotiations.	196
124	SIR M. LAMPSON Peking Tel. No. 902	Nov. 12	Reports Chinese news agency message regarding abolition of extraterritoriality from January 1, 1930, and suggests action proposed in No. 92 should be taken.	196
125	SIR M. LAMPSON Peking Tel. No. 910	Nov. 14	Refers to No. 95 and discusses policy in regard to the China Consortium with particular reference to the negotiations concerning Boxer Indemnity funds.	197
126	To SIR E. HOWARD Washington Tels. Nos. 577 and 578	Nov. 14	Refers to Nos. 115, 116 and 121: instructions to discuss whole question with U.S. Govt. laying particular emphasis on importance of united front in negotiations on extraterritoriality.	199

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
127	To LORD TYRRELL Paris Tel. No. 266 To MR. GASCOIGNE Oslo Tel. No. 62 To SIR O. RUSSELL The Hague Tel. No. 60	Nov. 14	Refers to No. 126: instructions to take similar action with Govt. to which accredited.	200
128	SIR M. LAMPSON Peking Tel. No. 921	Nov. 15	Refers to No. 118 and gives reasons against pursuing suggestion contained therein.	200
129	LORD TYRRELL Paris Tel. No. 153	Nov. 15	Refers to No. 127 and reports first impressions of head of Far Eastern Dept. of Ministry of Foreign Affairs on proposals in Nos. 116 and 126.	202
130	MR. CAMPBELL Washington Tel. No. 547	Nov. 16	Refers to No. 126: instructions were carried out in interview with Mr. Cotton and Mr. Johnson.	203
131	To SIR M. LAMPSON Peking Tel. No. 410	Nov. 18	Refers to No. 124: is reluctant to issue formal warning.	203
132	MR. CAMPBELL Washington Tel. No. 549	Nov. 19	Refers to No. 130: proposals on extraterritoriality in No. 116 discussed at length with Mr. Johnson and <i>aide-mémoire</i> left with him: question also mentioned to Secretary of State.	204
133	SIR M. LAMPSON Peking Tel. No. 931	Nov. 20	Refers to No. 114 and reports that French and Netherland Ministers have received notes inviting them to start negotiations on extraterritoriality in Nanking.	205
134	SIR J. TILLEY Tokyo Tel. No. 242	Nov. 22	Refers to No. 126 and reports discussion with M.F.A. on proposals on extraterritoriality in No. 116.	205
135	To SIR M. LAMPSON Peking Tel. No. 424	Nov. 22	Refers to No. 126: Netherland Govt. have expressed preference for transfer of jurisdiction by subjects.	206
136	To SIR M. LAMPSON Peking Tels. Nos. 426 and 427	Nov. 23	Instructions to inform Chinese M.F.A. that H.M.G. would be willing to confer with Chinese Govt. to reach settlement of Sino-Burmese frontier disputes.	206
137	SIR M. LAMPSON Peking Tel. No. 357 to Nanking Tel. No. 944 to F.O.	Nov. 23	Refers to No. 124 and instructs Mr. Aveling to ask Dr. Wang for explanation regarding press reports of November 20 forecasting unilateral abolition of extraterritoriality.	207
138	SIR V. WELLESLEY Foreign Office	Nov. 25	Record of conversation with Dr. Sze who put forward new proposals from the Chinese Govt. regarding the abolition of extraterritoriality: Dr. Sze was told that he should urge his govt. to adopt his own proposals of November 11 (see No. 122).	208
139	SIR M. LAMPSON Peking Tel. No. 951	Nov. 26	Reports meeting on November 25 with interested colleagues regarding extraterritoriality: question of applying Optional Clause was raised.	210

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
140	MR. CAMPBELL Paris No. 1594	Nov. 26	Reports views of French Ministry of Foreign Affairs regarding procedure in extraterritoriality negotiations and transmits memorandum on lines foreshadowed in No. 129.	210
141	SIR M. LAMPSON Peking Tel. No. 974	Nov. 29	Refers to No. 136: considers further action regarding Sino-Burmese frontier dispute is undesirable at present.	213
142	TO SIR M. LAMPSON Peking No. 1108	Nov. 29	Dr. Sze was told on November 28 that H.M.G. would deprecate unilateral abolition of extraterritoriality from January 1, 1930: Dr. Sze suggested H.M.G. should announce their willingness to renounce extraterritoriality in China within given period.	213
143	TO SIR M. LAMPSON Peking Tel. No. 441	Nov. 30	Transmits statement to be made in House of Commons on December 2 regarding possible Chinese denunciation of extraterritoriality.	214
144	SIR M. LAMPSON Peking No. 1723	Nov. 30	Refers to No. 94 and comments on memorandum enclosed therein regarding the problem of Shanghai.	215
145	SIR M. LAMPSON Peking Tel. No. 980	Dec. 1	Reports reliable information that Chinese Govt. do contemplate abolition of extraterritoriality on January 1, 1930, and discusses action to be taken by H.M.G. to protect British rights in that event.	217
146	SIR M. LAMPSON Peking Tel. No. 981	Dec. 1	Message for Sir V. Wellesley referring to No. 145: reports that Dr. Wang told Mr. M. MacDonald that Chinese Govt. would take no immediate action to implement abolition of extraterritoriality if negotiations were taking place.	220
147	SIR M. LAMPSON Peking Tel. No. 983	Dec. 1	Refers to Nos. 138 and 145: questions advisability of opening negotiations on extraterritoriality in view of present attitude of Chinese Govt.	221
148	TO SIR M. LAMPSON Peking Tel. No. 443	Dec. 2	Refers to No. 139: considers best hope of averting unilateral denunciation of extraterritoriality lies in starting discussions with Chinese Govt. at once.	222
149	SIR M. LAMPSON Peking Tel. No. 988	Dec. 2	Repeats Nanking telegram No. 250: message from Dr. Wang regarding opening of negotiations on extraterritoriality before January 1, 1930.	223
150	TO SIR M. LAMPSON Peking No. 1121	Dec. 2	Dr. Sze's attention was drawn to statement in No. 143 and to prejudicial effect of unilateral denunciation of extraterritoriality.	223
151	FRENCH AMBASSADOR London	Dec. 2	Note outlining reply of French Govt. to Chinese note of November 26 regarding extraterritoriality negotiations.	224
152	MR. CAMPBELL Washington Tel. No. 569	Dec. 3	Refers to No. 132 and reports conversations on November 30 and December 2 with Mr. Johnson regarding extraterritoriality.	225

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
		territoriality negotiations: Mr. Johnson stated that U.S. Govt. would negotiate with Chinese Minister in Washington.	
153 SIR M. LAMPSON Peking Tel. No. 989	Dec. 3	Refers to Nos. 148, 145, 147 and 138 and discusses disadvantages of immediate negotiations in Nanking regarding extraterritoriality.	226
154 To SIR M. LAMPSON Peking Tel. No. 449	Dec. 4	Discusses views expressed in No. 145 and suggests immediate opening of discussions regarding extraterritoriality with Dr. Wang.	227
155 SIR M. LAMPSON Peking Tel. No. 992	Dec. 5	Repeats Nanking telegram No. 255 of December 2, reporting conversation with Dr. Wang regarding importance to Chinese Govt. of success in abolishing extraterritoriality.	228
156 SIR M. LAMPSON Peking Tel. No. 996	Dec. 5	Acknowledges No. 154: will await reply to No. 153 before starting for Nanking.	228
157 To SIR M. LAMPSON Peking Tel. No. 452	Dec. 5	Refers to No. 160 and emphasizes importance of considerations advanced therein.	229
158 SIR M. LAMPSON Peking Tel. No. 998	Dec. 5	Refers to No. 138 and reports on Sino-French exchanges regarding proposed Chinese abolition of extraterritoriality.	229
159 To SIR M. LAMPSON Peking Tel. No. 453	Dec. 5	Refers to No. 152 and discusses venue of proposed Sino-American negotiations on extraterritoriality.	230
160 To SIR M. LAMPSON Peking Tel. No. 451	Dec. 5	Refers to No. 154 and sets out reasons for conducting extraterritoriality negotiations in China.	230
161 SIR M. LAMPSON Peking No. 1745	Dec. 5	Refers to Nos. 95 and 125: considers advantages of China Consortium outweigh disadvantages.	232
162 SIR M. LAMPSON Peking Tel. No. 1003	Dec. 6	Repeats Mr. Aveling's telegram No. 253 referring to No. 148 and reporting interview with Dr. Wang on Dec. 4 regarding opening of extraterritoriality negotiations.	234
163 To SIR M. LAMPSON Peking Tel. No. 458	Dec. 6	Refers to No. 139 and comments on possible use of Optional Clause or Article 19 of Covenant to contest China's right to unilateral denunciation of extraterritoriality treaties.	234
164 SIR M. LAMPSON Peking Tel. No. 1011	Dec. 7	Refers to No. 158 and reports on meeting at which interested colleagues discussed advisability of opening immediate negotiations on extraterritoriality with Chinese Govt.	236
165 SIR E. HOWARD Washington Tel. No. 577	Dec. 8	Refers to No. 152: summarizes <i>aide-mémoire</i> from State Dept. in reply to Mr. Campbell's <i>aide-mémoire</i> of November 19 (see No. 132), and U.S. draft proposal for transitional arrangements for relinquishment of extraterritoriality.	236

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
166	SIR E. HOWARD Washington Tel. No. 578	Dec. 8	Refers to No. 159 and comments on probability of Sino-American negotiations being held in Washington.	239
167	SIR M. LAMPSON Peking Tel. No. 1016	Dec. 9	Refers to No. 160 and discusses reasons for postponing opening of negotiations on extraterritoriality.	239
168	SIR M. LAMPSON Peking Tel. No. 1017	Dec. 9	Refers to No. 167 and urges that preliminary discussions on extraterritoriality should be held in London.	240
169	MR. CAMPBELL Paris Tel. No. 167	Dec. 10	Refers to No. 158: French Govt. do not admit Chinese right to denounce extraterritoriality treaties unilaterally.	241
170	SIR M. LAMPSON Peking Tel. No. 1025	Dec. 11	Refers to No. 163: discusses reasons for utilizing Permanent Court rather than League machinery to uphold case against unilateral action by China.	241
171	SIR M. LAMPSON Peking Tel. No. 1033	Dec. 12	Reports that French Minister has sent temporizing reply to invitation from M.F.A. to open negotiations on extraterritoriality in Nanking.	242
172	TO MR. CAMPBELL Paris No. 2641	Dec. 12	Records conversation on December 6 between Sir V. Wellesley and M. de Fleuriau regarding procedure for gradual relinquishment of extraterritoriality.	242
173	SIR M. LAMPSON Peking Tel. No. 1057	Dec. 17	Repeats Mr. Aveling's telegram No. 260 reporting conversation with M.F.A. on December 13 regarding extraterritoriality.	244
174	TO SIR M. LAMPSON Peking Tel. No. 480	Dec. 20	Refers to No. 167: instructions to open extraterritoriality negotiations: <i>aide-mémoire</i> regarding gradual abolition of extraterritoriality has been handed to Chinese Minister in London.	245
175	TO SIR M. LAMPSON Peking Tel. No. 484	Dec. 24	Chinese Minister has handed to Sir V. Wellesley satisfactory reply to British <i>aide-mémoire</i> (see No. 174) and has pressed for early negotiations.	246
176	SIR M. LAMPSON Peking Tel. No. 1090	Dec. 24	Repeats Mr. Aveling's telegram No. 271 reporting interview on December 23 with Dr. Wang who stated Chinese Govt. would issue mandate abolishing extraterritoriality within six months.	246
177	SIR M. LAMPSON Peking Tel. No. 1091	Dec. 25	Refers to No. 174: proposes to go to Nanking early in January: discusses possible course of negotiations on extraterritoriality.	247
178	TO SIR E. HOWARD Washington Tel. No. 675	Dec. 26	Instructions to enquire where Sino-American extraterritoriality negotiations will be held.	248
179	SIR E. HOWARD Washington Tel. No. 611	Dec. 28	Refers to No. 180: infers State Dept. would prefer extraterritoriality negotiations to be held in China.	249
180	SIR E. HOWARD Washington Tel. No. 610	Dec. 28	Refers to No. 178: information from Mr. Cotton and Mr. Johnson that in view of satisfactory Chinese proposal negotiations would probably be in Washington.	249

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
181 M. CAMBON London	Dec. 29	Letter to Sir V. Wellesley enclosing a note defining the French position in respect of the extraterritoriality negotiations.	250
182 SIR M. LAMPSON Peking Tel. No. 1102	Dec. 30	Repeats Mr. Aveling's telegram No. 275 reporting information from M.F.A. that abolition of extraterritoriality would begin in principle from January 1, 1930.	252
183 SIR M. LAMPSON Peking Tel. No. 1103	Dec. 30	Repeats Mr. Aveling's telegram No. 276 referring to No. 182, transmitting translation of Chinese mandate of December 28 abolishing extraterritoriality and commenting thereon.	252
184 SIR M. LAMPSON Peking Tel. No. 1107	Dec. 30	Refers to Nos. 182 and 183 and reports on meeting of interested colleagues at which situation in light of Chinese mandate was discussed.	253
185 SIR M. LAMPSON Peking Tel. No. 1108	Dec. 30	Refers to No. 184; transmits text of invitation from M.F.A. to proceed to Nanking and suggests lines of reply.	254
186 SIR M. LAMPSON Peking Tel. No. 1109	Dec. 31	Message for Sir V. Wellesley referring to No. 112 and commenting on forthcoming negotiations regarding Weihaiwei.	255
187 SIR M. LAMPSON Peking Tel. No. 1110	Dec. 31	Repeats Mr. Aveling's telegram No. 277 transmitting text of letter to Dr. Wang commenting on mandate of December 28 and reporting conversation with Dr. Wang on December 29 regarding interpretation thereof.	255
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188 SIR M. LAMPSON Peking Tel. No. 6	Jan. 1	Repeats Nanking telegram No. 301 transmitting text of letter of December 30 from Dr. Wang enclosing statement in explanation of mandate of December 28.	257
189 To SIR M. LAMPSON Peking Tel. No. 1	Jan. 1	Refers to Nos. 182-5; considers Chinese interpretation of mandate of December 28 should be accepted: <i>aide-mémoire</i> handed to Chinese Minister on January 1 (see No. 194).	258
190 SIR M. LAMPSON Peking Tel. No. 10	Jan. 2	Reports information from interested colleagues regarding their govts.' attitude towards Chinese mandate of December 28.	258
191 To SIR M. LAMPSON Peking Tel. No. 7	Jan. 2	Refers to No. 184; considers arrangements for protection of British subjects in China are adequate.	259
192 SIR M. LAMPSON Peking Tel. No. 13	Jan. 2	Refers to No. 190 and reports on meeting of Corps Diplomatique at which action to be taken as result of mandate of December 28 was discussed.	259
193 To SIR M. LAMPSON Peking No. 12	Jan. 4	Records conversation on December 31, 1929, between Sir V. Wellesley and M. de Fleuriau regarding action to be taken in view of mandate of December 28.	260
194 To SIR M. LAMPSON Peking No. 17	Jan. 6	<i>Aide-mémoire</i> regarding treaty rights of British subjects was handed on January 1 to Dr. Sze who gave assurances regarding interpretation of Chinese mandate of December 28, 1929.	262

CHAPTER IV

Further correspondence with regard to the demands of the Chinese Government for the abolition of extraterritorial rights in China: agreement on the rendition of Weihaiwei (January 9–April 30, 1930)

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
195	SIR M. LAMPSON Nanking Tel. No. 7 Tour	Jan. 9	Reports on informal exchange of views with Dr. Wang regarding abolition of extraterritoriality.	263
196	SIR M. LAMPSON Nanking Tel. No. 11 Tour	Jan. 10	Refers to No. 195 and reports on interview with M.F.A. on January 10 at which Chinese plan for abolition of extraterritoriality was discussed.	264
197	SIR M. LAMPSON Nanking Tel. No. 12 Tour	Jan. 10	Refers to No. 196 and transmits text of Chinese plan for abolition of extraterritoriality.	265
198	SIR E. HOWARD Washington No. 36	Jan. 10	Refers to No. 180 and reports on American reactions to proposed Chinese unilateral abolition of extraterritoriality and on information from Mr. Cotton respecting Sino-American exchanges relative to opening negotiations thereon.	266
199	SIR M. LAMPSON Nanking Tel. No. 13 Tour	Jan. 11	Reports conversation with M.F.A. on January 11 regarding rendition of Weihaiwei: transmits joint proposal for completing draft agreement.	268
200	SIR M. LAMPSON Nanking Tel. Unnumbered Tour	Jan. 11	Refers to No. 199 and recommends acceptance of proposal put forward therein.	269
201	SIR M. LAMPSON Nanking Tel. No. 15 Tour	Jan. 11	Message for Sir V. Wellesley urging acceptance of proposal in No. 199.	269
202	SIR M. LAMPSON Nanking No. 8 Tour	Jan. 13	Transmits record of conversation with Sir F. Whyte on January 10 respecting extraterritoriality and the Chinese political situation.	269
203	SIR M. LAMPSON Nanking Tel. No. 23 Tour	Jan. 14	Reports on meeting with M.F.A. on January 13 at which 1924 draft agreement for rendition of Weihaiwei was discussed in detail.	271
204	SIR M. LAMPSON Nanking Tel. No. 27 Tour	Jan. 15	Reports on informal discussions regarding extraterritoriality held with Dr. Wang Chung-hui and Mr. Hu Han-min.	272
205	TO MR. GARSTIN Shanghai Tel. No. 8	Jan. 15	Message for Sir M. Lampson referring to Nos. 195–7 and approving submission to the Chinese Govt. of British plan for gradual relinquishment of extraterritorial rights.	274
206	SIR M. LAMPSON Shanghai Tel. No. 35 Tour	Jan. 17	Requests early instructions regarding proposed settlement on Weihaiwei.	274
207	SIR M. LAMPSON Shanghai Tel. No. 36 Tour	Jan. 18	Refers to No. 205 and transmits draft text for submission to Chinese Govt.	274

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
208	To MR. GARSTIN Shanghai Tel. No. 12	Jan. 18	Message for Sir M. Lampson regarding delay in instructions requested in No. 206 and requesting views on political situation in Shantung.	276
209	SIR M. LAMPSON Shanghai Tel. No. 44 Tour	Jan. 19	Refers to No. 208: considers situation in Shantung should not delay rendition of Weihaiwei.	276
210	To MR. GARSTIN Shanghai Tel. No. 14	Jan. 20	Message for Sir M. Lampson approving draft text transmitted in No. 207 subject to certain amendments.	276
211	To SIR E. HOWARD Washington No. 115	Jan. 21	Refers to No. 165 and comments on views regarding extraterritoriality expressed by State Dept.	277
212	MR. CAMPBELL Washington Tel. No. 33	Jan. 28	Reports on provisions of agreement on extraterritoriality suggested by U.S. Govt. to Chinese Minister: Dr. Hornbeck has requested information regarding instructions sent to Sir M. Lampson.	278
213	SIR M. LAMPSON Nanking Tel. No. 54 Tour	Feb. 3	Urges speedy despatch of instructions on Weihaiwei while atmosphere is favourable for obtaining satisfactory settlement.	279
214	SIR M. LAMPSON Nanking Tel. No. 58 Tour	Feb. 4	Refers to No. 210 and reports on comments made by Chinese M.F.A. on British programme for relinquishment of extraterritoriality.	279
215	To MR. CAMPBELL Washington Tel. No. 64	Feb. 5	Transmits information regarding instructions on extraterritoriality sent to Sir M. Lampson.	281
216	To MR. HEWLETT Nanking Tels. Nos. 12 and 13	Feb. 5	Message for Sir M. Lampson referring to No. 199: H.M.G. accept in principle proposed basis of agreement on Weihaiwei subject to certain stipulations.	282
217	To MR. BRENNAN Shanghai Tel. No. 19	Feb. 7	Message for Sir M. Lampson regarding memorandum on extraterritoriality communicated by Japanese Ambassador, to whom importance of Anglo-Japanese co-operation was emphasized.	283
218	To MR. HEWLETT Nanking Tel. No. 17	Feb. 8	Message for Sir M. Lampson referring to No. 214 and commenting on influence of U.S. scheme (see No. 212) on attitude of Dr. Wang.	284
219	SIR M. LAMPSON Nanking Tel. No. 73 Tour	Feb. 11	Summarizes draft agreements on Weihaiwei handed to M.F.A. on February 10.	285
220	SIR M. LAMPSON Nanking Tel. No. 74 Tour	Feb. 11	Reports on discussion on February 10 with Dr. Wang concerning draft agreements on Weihaiwei (see No. 219).	286
221	SIR M. LAMPSON Nanking Tel. No. 76 Tour	Feb. 12	Refers to No. 220 and reports Dr. Wang's agreement to suggested wording of draft article 23.	288
222	SIR M. LAMPSON Nanking No. 43 Tour	Feb. 13	Refers to No. 223 and transmits minute recording negotiations regarding Weihaiwei on February 11-13: requests authority to sign draft agreements.	288

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
223	SIR M. LAMPSON Nanking Tel. No. 81 Tour	Feb. 14	Reports that copies of draft agreements on Weihaiwei were exchanged on February 13: outlines modifications made to drafts summarized in No. 219.	291
224	SIR M. LAMPSON Nanking Tel. No. 83 Tour	Feb. 14	Reports conversation with M.F.A. regarding sending of instructions to Chinese provincial authorities respecting jurisdiction over foreigners.	292
225	MR. ORDE Foreign Office	Feb. 15	Note for Sir V. Wellesley recording a telephone conversation with Mr. Atherton respecting U.S. Govt.'s scheme on extra-territoriality (see No. 212).	293
226	TO MR. ATHERTON London	Feb. 15	Letter from Sir V. Wellesley referring to Nos. 132 and 165 and commenting on concessions made to Chinese Govt. in U.S. Govt.'s scheme (see No. 212).	293
227	SIR M. LAMPSON Nanking Tel. No. 85 Tour	Feb. 16	Refers to Nos. 218 and 214 and discusses modifications to British scheme in view of American action (see No. 212): comments on possible effect on status of Shanghai of relinquishment of certain extraterritorial rights.	295
228	MR. BRENNAN Shanghai Tel. Unnumbered	Feb. 17	Repeats telegram No. 14 of February 11 to Sir M. Lampson transmitting views concerning effect on Shanghai Settlement of surrender of certain extraterritorial rights.	297
229	SIR M. LAMPSON Nanking Tel. No. 89 Tour	Feb. 18	Repeats Foochow telegram No. 5 to Peking concerning instructions to Provincial Govt. regarding jurisdiction over foreigners.	298
230	SIR M. LAMPSON Nanking Tel. No. 88 Tour	Feb. 18	Reports conversation with M.F.A. regarding proposed appointment of foreign co-judges if criminal jurisdiction surrendered.	298
231	SIR M. LAMPSON Nanking Tel. No. 98 Tour	Feb. 19	Reports on final conversation regarding extraterritoriality with Dr. Wang.	299
232	MR. CAMPBELL Washington Tel. No. 82	Feb. 23	Reports on conversation with Dr. Hornbeck on February 21 regarding effect on Sir M. Lampson's negotiations of U.S. Govt.'s scheme (see No. 212).	300
233	MR. CAMPBELL Washington Tel. No. 82 Part II	Feb. 23	Discusses extent to which U.S. Govt. should be kept informed of Sir M. Lampson's negotiations on extraterritoriality: Dr. Hornbeck stated U.S. Govt. did not wish to be committed to policy adopted by other Powers.	302
234	TO SIR M. LAMPSON Peking Tel. No. 49	Feb. 26	Refers to Nos. 227 and 230 and discusses effect of surrender of extraterritorial rights on Shanghai Settlement and considers future tactics in light of U.S. Govt.'s scheme.	303
235	TO MR. CAMPBELL Washington Tel. No. 122	Feb. 27	Refers to Nos. 232-3: instructions to explain to Dr. Hornbeck latest developments in Sir M. Lampson's negotiations.	305

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
236 MR. CAMPBELL Washington Tel. No. 98	Mar. 3	Reports on interview on March 1 with Dr. Hornbeck regarding extraterritoriality negotiations: importance attached by H.M.G. to co-operation between the Powers was emphasized.	306
237 SIR M. LAMPSON Peking Tel. No. 103	Mar. 6	Reports on conversation with U.S. colleague regarding extraterritoriality negotiations.	308
238 SIR M. LAMPSON Peking Tel. No. 104	Mar. 6	Refers to No. 234 and discusses new scheme for agreement on extraterritoriality being prepared in Legation.	309
239 SIR M. LAMPSON Peking Tel. No. 114	Mar. 10	Refers to No. 240 and transmits draft agreement providing for surrender of certain extraterritorial rights by British subjects in China.	310
240 SIR M. LAMPSON Peking Tel. No. 113	Mar. 10	Refers to No. 238 and comments on draft agreement on extraterritoriality submitted in No. 239.	316
241 MR. CAMPBELL Washington Tel. No. 121	Mar. 12	Refers to No. 236 and reports on conversation with Dr. Hornbeck on March 10 regarding effect on position of H.M.G. of U.S. Govt.'s scheme (see No. 212).	317
242 SIR M. LAMPSON Peking No. 311	Mar. 17	Reports on negotiations leading to conclusion on February 17 of the agreement relating to the Chinese courts in the International Settlement at Shanghai.	318
243 MR. CAMPBELL Washington Tel. No. 131	Mar. 18	Reports information from Dr. Hornbeck regarding State Dept.'s views on problem of Shanghai: question of abandoning co-judges or criminal jurisdiction was discussed on March 17.	327
244 SIR R. LINDSAY Washington No. 453	Mar. 20	Refers to No. 236 and transmits copy of note of February 28 regarding U.S. Govt.'s attitude towards co-operation between the Powers in the extraterritoriality negotiations.	328
245 SIR M. LAMPSON Peking Tel. No. 142	Mar. 21	Reports on conversation with U.S. Minister regarding draft agreement on extraterritoriality (No. 239).	329
246 To SIR M. LAMPSON Peking No. 324	Mar. 26	Records conversation on March 20 between Japanese Counsellor and Sir V. Wellesley regarding effect on policy of H.M.G. of U.S. Govt.'s scheme (see No. 212).	331
247 SIR M. LAMPSON Peking Tel. No. 155	Mar. 27	Refers to No. 245: has agreed with U.S. Minister to recommend identic drafts to respective govts. (see No. 248).	332
248 SIR M. LAMPSON Peking Tel. No. 156	Mar. 28	Transmits amendments to draft in No. 239 which then represents agreed draft referred to in No. 247.	332
249 SIR M. LAMPSON Peking Tel. No. 157	Mar. 28	Submits explanatory notes on joint draft agreement on extraterritoriality (see Nos. 239 and 248).	335

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
250	TO SIR M. LAMPSON Peking Tel. No. 100	Mar. 28	Refers to No. 222 and authorises signature of convention and agreement on rendition of Weihaiwei subject to certain stipulations.	336
251	TO SIR M. LAMPSON Peking Tel. No. 101	Mar. 28	Refers to No. 250 and transmits certain formal alterations to be made to draft agreements on Weihaiwei.	337
252	SIR M. LAMPSON Peking Tel. No. 168	Apr. 1	Copies of joint draft agreement have been communicated with verbal explanations to French and Japanese colleagues.	338
253	SIR M. LAMPSON Peking No. 382	Apr. 1	Transmits copy of Shanghai despatch No. 50 of March 9 recording a conversation between Dr. Wang and Mr. Brenan respecting Shanghai problems.	339
254	SIR M. LAMPSON Peking Tel. No. 171	Apr. 3	Refers to No. 252: copies of draft have been communicated to Netherland and Norwegian colleagues and verbal outline to Brazilian colleague.	342
255	SIR M. LAMPSON Peking Tel. No. 179	Apr. 5	Refers to No. 256 and comments on points still in dispute with Dr. Wang regarding draft agreements on Weihaiwei.	342
256	SIR M. LAMPSON Peking Tel. No. 180	Apr. 5	Repeats Mr. Ingram's telegram No. 23 reporting on a conversation with Dr. Wang on April 4 regarding alterations to draft agreements on Weihaiwei (see No. 251).	343
257	TO SIR M. LAMPSON Peking Tel. No. 110	Apr. 7	Refers to No. 255 and gives instructions regarding points in dispute with Dr. Wang.	344
258	SIR M. LAMPSON Peking No. 452	Apr. 11	Transmits record of conversation with Mr. Tong on April 10 respecting the civil war in China and communism.	344
259	TO SIR M. LAMPSON Nanking Tel. No. 1 Tour	Apr. 15	Discusses draft agreement on extraterritoriality (see Nos. 239 and 248), and suggests amendments thereto.	346
260	SIR M. LAMPSON Nanking Tel. No. 109 Tour	Apr. 18	Refers to No. 261: convention and agreement on Weihaiwei to be signed that night.	348
261	SIR M. LAMPSON Nanking Tel. No. 106 Tour	Apr. 19	Reports on conversations on April 17 with Chinese M.F.A. and Dr. Wang Chung-hui on outstanding topics.	349
262	SIR M. LAMPSON Nanking Tel. No. 107 Tour	Apr. 19	Refers to No. 261: Dr. Wang Chung-hui was informed extraterritoriality negotiations would be delayed while draft agreement was being considered by the Powers.	350
263	SIR M. LAMPSON Nanking Tel. No. 111 Tour	Apr. 19	Refers to No. 262: M.F.A. has been similarly informed.	351
264	SIR M. LAMPSON Nanking Tel. No. 112 Tour	Apr. 19	Enumerates documents relating to rendition of Weihaiwei signed on April 18.	351
265	SIR M. LAMPSON Nanking Tel. No. 113 Tour	Apr. 19	Refers to No. 264 and transmits text of note to M.F.A. reserving right to delay rendition if Chinese Govt. were not in control of Shantung.	352

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
266	SIR M. LAMPSON Nanking Tel. No. 118 Tour	Apr. 21	Reports on conversation with General Chiang on April 19 concerning general situation in China.	353
267	SIR R. LINDSAY Washington Tel. No. 174	Apr. 23	Refers to No. 269 and transmits comments by Dr. Hornbeck on revised draft referred to in No. 268.	354
268	SIR R. LINDSAY Washington Tel. No. 171	Apr. 23	Reports receipt of revision prepared in State Dept. of joint draft agreement on extraterritoriality (see Nos. 239 and 248).	354
269	SIR R. LINDSAY Washington Tel. No. 172	Apr. 23	Refers to No. 268 and transmits part of covering letter from Dr. Hornbeck in explanation of revised draft agreement.	355
270	SIR M. LAMPSON Nanking Tel. No. 123 Tour	Apr. 24	Refers to No. 264 and requests views as to publication of agreements on Weihaiwei.	356
271	SIR M. LAMPSON Nanking Tel. No. 124 Tour	Apr. 24	Refers to No. 264 and reports conversation with M.F.A. on April 21 regarding rendition and future administration of Weihaiwei.	357
272	TO SIR M. LAMPSON Nanking Tel. No. 6 Tour	Apr. 25	Refers to No. 270 and gives views on date of publication of agreements on Weihaiwei.	357
273	SIR M. LAMPSON Nanking No. 89 Tour	Apr. 29	Refers to No. 60 and reports on negotiations leading to conclusion of convention for rendition of Weihaiwei and agreement for loan of naval facilities.	358
274	SIR M. LAMPSON Nanking Tel. No. 135 Tour	Apr. 30	Refers to No. 272 and submits date of publication of Weihaiwei agreements.	365

CHAPTER V

General political situation in China: further correspondence regarding the question of extraterritoriality: British proposals of September 11, 1930, to the Chinese Government: Chinese proposals of December 1: the rendition of Weihaiwei (May 2–December 24, 1930)

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
275	SIR M. LAMPSON Nanking Tel. No. 148 Tour	May 2	Reports on conversations with U.S. Minister on April 30 and May 1 regarding State Dept. redraft (see No. 268) of joint draft agreement on extraterritoriality: joint recommendations for amending redraft were agreed, and future policy discussed.	366
276	TO SIR R. LINDSAY Washington Tel. No. 241	May 13	Refers to No. 275 and discusses joint recommendations of Sir M. Lampson and Mr. Johnson: instructions to bring amendments in No. 277 to attention of State Dept.	367
277	TO SIR R. LINDSAY Washington Tel. No. 242	May 13	Refers to No. 276 and transmits amendments suggested by H.M.G. to State Dept.'s redraft of agreement on extraterritoriality (see No. 268).	368

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
278	SIR J. PRATT Foreign Office	May	Memorandum discussing British policy in regard to the National Government of China.	369
279	SIR R. LINDSAY Washington Tel. No. 231	June 15	Summarizes State Dept.'s comments (a) on amendments in No. 277 and on views in No. 276; (b) on text of draft agreement on extraterritoriality as revised by State Dept. to June 4.	373
280	To SIR M. LAMPSON Peking Tel. No. 160	June 17	Requests views as to advisability of Sir M. Lampson's returning to London for consultation regarding situation in China.	375
281	SIR J. PRATT Foreign Office	June 18	Memorandum respecting the problem of the collection of customs duties at Tientsin by the Shansi authorities.	376
282	SIR M. LAMPSON Peking Tel. No. 366	June 20	Refers to No. 280: does not advise his returning to London: is opposed to any British interference in affairs of China.	379
283	To SIR M. LAMPSON Peking Tel. No. 180	June 28	Concurs in views expressed in No. 282 regarding Sir M. Lampson's return to London in present circumstances.	380
284	SIR M. LAMPSON Peking Tel. No. 203 to Shanghai Tel. No. 415 to F.O.	July 2	Refers to No. 271 and instructs Mr. Ingram to raise with Dr. Wang certain questions regarding the rendition and future administration of Weihaiwei.	380
285	SIR M. LAMPSON Peking Tel. No. 425	July 7	Repeats Nanking telegram No. 156 of July 5 transmitting invitation from Dr. Wang to Sir M. Lampson to resume extraterritoriality negotiations.	380
286	SIR M. LAMPSON Peking Tel. No. 426	July 7	Refers to message in No. 285 and suggests line of reply.	381
287	SIR M. LAMPSON Peking Tel. No. 423	July 8	Repeats telegram No. 15 from British Commissioner, Weihaiwei, reporting on discussions with Chinese rendition delegates.	382
288	To SIR M. LAMPSON Peking Tel. No. 203	July 16	Refers to No. 286 and discusses latest revision by State Dept. of draft scheme on extraterritoriality: instructions regarding reply to Dr. Wang's invitation in No. 285.	382
289	SIR M. LAMPSON Peking Tel. No. 442	July 16	Repeats Mr. Ingram's telegram No. 164 reporting a conversation on July 12 with Dr. Wang who pressed for resumption of extraterritoriality negotiations.	383
290	FOREIGN OFFICE	July 19	Memorandum respecting the prospects of stable government in China.	384
291	SIR M. LAMPSON Peking Tel. No. 449	July 21	Refers to No. 288 and acknowledges instructions: emphasizes importance of flexibility in forthcoming extraterritoriality negotiations.	389
292	To SIR M. LAMPSON Peking Tel. No. 214	July 28	Refers to No. 291: discusses importance of co-operation with Dominion and U.S. govts. in preparing draft agreement on extraterritoriality.	389

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	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
293	TO SIR M. LAMPSON Peking Tel. No. 227	Aug. 7	Reports interview with American Embassy representative regarding timing of reopening of negotiations on extraterritoriality.	390
294	MR. AVELING Peking Tel. No. 490	Aug. 7	Repeats telegram from Sir M. Lampson at Peitaiho setting out arguments against delaying rendition of Weihaiwei.	391
295	TO SIR M. LAMPSON Peking Tel. No. 233	Aug. 12	Transmits text of note to be addressed to Chinese M.F.A. refusing his request for prosecution of Mr. Lenox Simpson, Commissioner of Customs at Tientsin for the Shansi authorities.	392
296	SIR J. PRATT Foreign Office	Aug. 13	Record of conversation with Mr. Atherton regarding the confidential nature of the State Dept.'s extraterritoriality draft and the giving of notice before presenting proposals to China.	394
297	TO MR. ATHERTON London	Aug. 15	Letter from Sir J. Pratt giving further information on the two points referred to in No. 296.	395
298	SIR M. LAMPSON Peking Tel. No. 524	Aug. 18	Refers to No. 297 and emphasizes importance of keeping Japan informed on extraterritoriality negotiations: outlines his own plans.	396
299	TO MR. ATHERTON London	Aug. 18	Letter from Sir J. Pratt giving notice of Sir M. Lampson's intention to present proposals on extraterritoriality to Chinese Govt.	397
300	TO SIR M. LAMPSON Peking Tel. No. 245	Aug. 23	Discusses objections to State Dept.'s proposal to delay reopening of negotiations on extraterritoriality.	397
301	SIR M. LAMPSON Peitaiho Tel. Unnumbered	Aug. 27	Refers to No. 300 and puts forward further arguments in favour of views expressed therein.	398
302	SIR M. LAMPSON Peitaiho Tel. Unnumbered	Aug. 27	Message for Sir V. Wellesley referring to No. 301: considers he should proceed to Nanking rather than visit Japan.	399
303	TO SIR M. LAMPSON Peking Tel. No. 259	Aug. 29	Message from Sir V. Wellesley referring to Nos. 302 and 304 and agreeing with views expressed in No. 302.	399
304	TO SIR M. LAMPSON Peking Tel. No. 260	Aug. 29	Concurs in views expressed in No. 301: instructions to present draft proposals on extraterritoriality to Chinese Govt.	400
305	SIR M. LAMPSON Peking Tel. No. 555	Aug. 30	Reports conversation on August 27 with Marshal Chang Hsueh-liang regarding political situation in Northern China.	400
306	TO SIR M. LAMPSON Peking Tel. No. 269	Sept. 4	Agrees with views expressed in No. 294: instructions to discuss with Dr. Wang Chinese Govt.'s arrangements for taking over administration of Weihaiwei.	401
307	SIR M. LAMPSON Peking Tel. No. 576	Sept. 5	Has informed U.S. colleague that June 4 draft agreement on extraterritoriality will be presented to Chinese Govt. on Sept.	402

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
		11: Mr. Johnson is suggesting that similar draft be handed at same time to Chinese Minister in Washington.	
308 To SIR J. TILLEY Tokyo Tel. No. 95	Sept. 6	Refers to No. 307: instructions to suggest that Japanese Govt. take similar action.	402
309 SIR R. LINDSAY Washington Tel. No. 300	Sept. 7	Reports on conversation on September 6 with Dr. Hornbeck who complained that he had not been kept informed of developments in British policy on extraterritoriality.	403
310 MR. MOUNSEY Foreign Office	Sept. 8	Record of conversation with Mr. Atherton regarding difficulties in co-ordinating British and U.S. policy on extraterritoriality.	404
311 SIR J. TILLEY Tokyo Tel. No. 188	Sept. 9	Reports information from Vice-M.F.A. that Japanese Govt. are unlikely to have any objection to June 4 draft on extraterritoriality.	406
312 SIR M. LAMPSON Nanking Tel. No. 181 Tour	Sept. 9	U.S. Minister has communicated State Dept.'s wish for delay in presenting proposals to Chinese Govt.: Mr. Johnson has informed State Dept. that Sir M. Lampson will not delay.	406
313 To SIR M. LAMPSON Nanking Tel. No. 18 Tour	Sept. 10	Refers to No. 312: similar communication was made on Sept. 8 by Mr. Atherton, who also stated that State Dept. would make declaration to Chinese Minister in Washington in support of British action.	406
314 SIR R. LINDSAY Washington Tel. Unnumbered	Sept. 10	Refers to No. 309: State Dept. have not yet reached decision regarding certain British amendments to June 4 draft on extraterritoriality.	407
315 SIR M. LAMPSON Nanking Tel. No. 185 Tour	Sept. 10	Has carried out instructions in No. 306: Dr. Wang maintained that the National Govt. were in effective control of Shantung.	407
316 SIR M. LAMPSON Nanking Tel. No. 187 Tour	Sept. 11	Refers to No. 315 and transmits <i>aide-mémoire</i> from Dr. Wang regarding future administration of Weihaiwei and requests authority to exchange ratifications of agreements.	408
317 SIR M. LAMPSON Nanking Tel. No. 188 Tour	Sept. 11	Refers to No. 313: draft extraterritoriality treaty was handed to M.F.A. on September 11.	409
318 To SIR R. LINDSAY Washington Tel. No. 428	Sept. 11	Refers to Nos. 309 and 310: instructions to explain to Dr. Hornbeck how misunderstandings on extraterritoriality policy occurred.	409
319 To SIR R. LINDSAY Washington Tel. No. 430	Sept. 12	Refers to No. 314 and gives explanation regarding British amendments.	410
320 SIR M. LAMPSON Nanking No. 122 Tour	Sept. 12	Transmits copies of the minute of an interview with Chinese M.F.A. on September 11 and of the draft treaty on extraterritoriality handed to Dr. Wang.	411

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
321	TO SIR M. LAMPSON Nanking Tel. No. 26 Tour	Sept. 17	Refers to No. 316 and authorizes exchange of ratifications of Weihaiwei agreements on October 1.	420
322	SIR M. LAMPSON Nanking No. 149 Tour	Sept. 19	Reports on conversation on September 17 with Dr. Wang who expressed disappointment with British extraterritoriality proposals.	420
323	SIR J. TILLEY Tokyo No. 479	Sept. 20	Reports on conversation between Commercial Counsellor and Vice-M.F.A. regarding Anglo-Japanese co-operation in China.	421
324	SIR M. LAMPSON Nanking Tel. No. 215 Tour	Sept. 22	Reports that procedure for ratification and for rendition of Weihaiwei has been arranged with M.F.A.	423
325	SIR M. LAMPSON Nanking Tel. No. 216 Tour	Sept. 23	Reports conversation with Dr. Wang on September 22 regarding procedure in extraterritoriality negotiations.	424
326	MR. AVELING Peking Tel. No. 599	Sept. 23	Repeats Tientsin telegram No. 79 reporting resumption by former Commissioner of control of native customs at Tientsin.	424
327	MR. AVELING Peking Tel. No. 608	Oct. 2	Repeats Weihaiwei telegram No. 1 reporting that rendition of Weihaiwei was successfully carried out.	425
328	TO SIR M. LAMPSON Peking No. 875	Oct. 13	The Chinese Minister called on October 2 to express his govt.'s thanks for rendition of Weihaiwei.	425
329	TO SIR M. LAMPSON Peking No. 878	Oct. 14	Records conversation between M. de Fleuriau and Sir V. Wellesley on October 9 regarding the proposals presented to Dr. Wang on September 11.	426
330	SIR M. LAMPSON Peking Tel. No. 672	Oct. 31	Reports information from U.S. Minister regarding progress of U.S.-Chinese negotiations on extraterritoriality and Chinese attitude to H.M.G.'s proposals.	426
331	SIR M. LAMPSON Nanking Tel. No. 229 Tour	Nov. 17	Reports conversation with M.F.A. on various topics including extraterritoriality, proposed Hong Kong customs agreement and debts.	427
332	SIR M. LAMPSON Nanking Tel. No. 242 Tour	Nov. 21	Reports conversation on November 20 with Dr. Wang who commented on those points in British extraterritoriality draft unacceptable to his govt.	428
333	TO SIR M. LAMPSON Peking No. 999	Nov. 28	Records conversation between M. de Fleuriau and Sir V. Wellesley on November 24 regarding French attitude to Chinese counter-proposals on extraterritoriality.	429
334	SIR M. LAMPSON Nanking No. 191 Tour	Dec. 1	Transmits copies of the minute of an interview with M.F.A. and of the draft treaty on extraterritoriality communicated by Dr. Wang on December 1.	430
335	TO SIR M. LAMPSON Peking Tel. No. 331	Dec. 2	Refers to No. 332: sets out reasons why H.M.G. cannot agree to surrender extraterritorial rights without adequate safeguards for British subjects.	436

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
336	SIR M. LAMPSON Peking No. 1826	Dec. 10	Refers to No. 334 and transmits detailed comments by Mr. Teichman on the Chinese draft: discusses future policy.	436
337	SIR M. LAMPSON Peking Tel. No. 746	Dec. 19	Outlines proposed reply to message from Dr. Wang urging a speedy conclusion of the negotiations on extraterritoriality, or else Chinese Govt. would have to take other action.	449
338	TO MR. SNOW Tokyo No. 658	Dec. 19	Refers to No. 323 and explains H.M.G.'s attitude towards Anglo-Japanese co-operation in China.	449
339	SIR M. LAMPSON Peking Tel. No. 747	Dec. 20	Refers to No. 337 and discusses attitude to be taken by H.M.G. in light of this pressure from Chinese Govt.	450
340	SIR M. LAMPSON Peking Tel. No. 755	Dec. 22	Repeats Nanking telegram No. 294 emphasizing determination of Chinese Govt. to abolish extraterritoriality by May 1932.	451
341	SIR M. LAMPSON Peking Tel. No. 756	Dec. 22	Repeats Nanking telegram No. 296: on Dec. 21 Mr. Ingram saw Dr. Wang who stressed the seriousness of his message (see No. 337).	452
			<i>Note 2.</i> Minutes by Viscount Cecil, Sir J. Pratt, Mr. MacKillop and Sir V. Wellesley regarding a proposal to refer the extraterritoriality problem to the League of Nations.	452
342	SIR M. LAMPSON Peking Tel. No. 759	Dec. 23	French Minister will reply to Dr. Wang on lines similar to those indicated in No. 337.	454
343	TO SIR M. LAMPSON Peking Tel. No. 353	Dec. 23	Refers to No. 337 and approves proposed reply: suggests additional material.	454
344	MR. SNOW Tokyo Tel. No. 252	Dec. 23	Refers to No. 339 and reports that Vice-M.F.A. stated in reply to question that he felt no anxiety regarding China's intentions towards Japan.	455
345	SIR M. LAMPSON Peking Tel. No. 261 to Nanking Tel. No. 764 to F.O.	Dec. 24	Instructions to Mr. Hewlett to deliver to Dr. Wang the reply to his message and also verbal message from Sir M. Lampson.	455

CHAPTER VI

Further correspondence regarding the demand of the Chinese Government for the abolition of extraterritoriality: Sir M. Lampson's negotiations with Dr. Wang: the agreed text of the draft Anglo-Chinese treaty on extraterritoriality referred to the British and Chinese Governments (January 7-June 8, 1931)

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
346	MR. INGRAM Peking Tel. No. 8	Jan. 7	Information from U.S. colleague that State Dept. were preparing revised draft for presentation to Chinese Govt.	457

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
347	To MR. INGRAM Peking Tel. No. 12	Jan. 9	U.S. Embassy have communicated State Dept.'s view that Chinese Govt. would not abrogate extraterritoriality unilaterally before end of 1932, but early conclusion of negotiations would be advantageous.	457
348	To MR. ATHERTON London	Jan. 9	Letter from Sir V. Wellesley expressing general agreement with views in No. 347, but stressing importance of early settlement.	458
349	MR. INGRAM Peking Tel. No. 18	Jan. 14	Refers to No. 347: does not agree that Chinese will let question of abolition of extraterritoriality rest.	459
350	MR. INGRAM Peking Tel. No. 20	Jan. 14	Repeats Shanghai telegram No. 3 of January 9: Japanese Chargé d'Affaires is studying question of extraterritoriality but has submitted no proposals to Chinese Govt.	459
351	To MR. INGRAM Peking Tel. No. 24	Jan. 22	Refers to No. 347: U.S. Embassy has communicated summary of new American draft: requests observations.	460
352	MR. INGRAM Peking Tel. No. 36	Jan. 28	Repeats Shanghai telegram No. 6 referring to No. 351 and transmitting comments of Mr. Brenan and Crown Advocate on American redraft.	460
353	MR. INGRAM Peking Tel. No. 35	Jan. 28	Refers to No. 351 and expresses agreement with views in No. 352: adds further comment.	461
354	MR. SNOW Tokyo No. 34	Jan. 28	Comments on passages concerning Japanese relations with China in speech made to Diet by Baron Shidehara, Japanese M.F.A., on January 22.	462
355	To MR. ATHERTON London	Feb. 3	Letter from Mr. Orde enclosing a memorandum setting out F.O. views on U.S. redraft of agreement on extraterritoriality (see No. 351).	464
356	MR. ATHERTON London	Feb. 11	Letter to Sir V. Wellesley referring to No. 355 and communicating information regarding progress of U.S.-Chinese extraterritoriality negotiations.	466
357	SIR R. LINDSAY Washington No. 271	Feb. 12	Reports conversation on February 12 with Mr. Castle regarding Anglo-American co-operation in China and measures to be taken should the Chinese Govt. unilaterally abolish extraterritoriality.	468
358	To MR. INGRAM Peking Tel. No. 40	Feb. 18	Refers to No. 336 and sets out principles as basis for British policy on extraterritoriality.	469
359	SIR M. LAMPSON Nanking Tel. No. 8 Tour	Mar. 1	Japanese Chargé d'Affaires has been informed of sense of No. 358: Mr. Shigemitsu stated that Japanese Govt. would make no immediate move.	471
360	SIR M. LAMPSON Nanking Tel. No. 10 Tour	Mar. 1	Requests early instructions so that extraterritoriality negotiations may be opened.	471

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
361	SIR M. LAMPSON Nanking Tel. No. 12 Tour	Mar. 2	Reports conversation with U.S. Minister regarding place and time of U.S.-Chinese negotiations: gist of No. 358 communicated to Mr. Johnson.	472
362	To SIR M. LAMPSON Nanking Tel. No. 7 Tour	Mar. 5	Refers to No. 360: No. 358 may be regarded as text of instructions: gives further instructions as to consultation with U.S. Minister on tactics in negotiating with Chinese Govt.	473
363	To SIR R. LINDSAY Washington Tel. No. 149	Mar. 5	Instructions to communicate to U.S. Govt. gist of Nos. 358 and 362 and to request that Mr. Johnson be similarly instructed.	474
364	SIR M. LAMPSON Nanking Tel. No. 19 Tour	Mar. 5	Refers to No. 361: information from Mr. Johnson that U.S. negotiations will not be transferred to Nanking but moral support will be given to Sir M. Lampson: indicates line taken in conversation with Dr. Wang Chung-hui.	474
365	SIR M. LAMPSON Nanking Tel. No. 20 Tour	Mar. 6	Refers to Reuter message of March 3 and indicates how British press could support line Sir M. Lampson is taking in China.	475
366	To SIR R. LINDSAY Washington No. 303	Mar. 7	Refers to No. 357 and discusses policy in the event of unilateral abrogation of extraterritoriality by China.	476
367	SIR R. LINDSAY Washington Tel. No. 168	Mar. 8	Refers to No. 368: question of transfer of U.S. extraterritoriality negotiations to Nanking was also discussed with Mr. Castle.	478
368	SIR R. LINDSAY Washington Tel. No. 167	Mar. 8	Refers to No. 363: substance of instructions to Sir M. Lampson on extraterritoriality was discussed with Mr. Castle on March 7.	479
369	To SIR M. LAMPSON Nanking Tel. No. 16 Tour	Mar. 10	Reuters deny sending telegram referred to in No. 365: British press is not being inspired.	479
370	SIR M. LAMPSON Nanking Tel. No. 34 Tour	Mar. 12	Reports that he has exchanged information regarding extraterritoriality negotiations with his French colleague. <i>Note 1.</i> Telegram No. 30 Tour: Mr. Shigemitsu, on being informed of Sir M. Lampson's negotiations, promised to co-operate.	480 480
371	SIR M. LAMPSON Nanking Tel. No. 39 Tour	Mar. 13	Reports information from Mr. Johnson that U.S. extraterritoriality negotiations will be transferred to Nanking.	480
372	SIR R. LINDSAY Washington Tel. No. 180	Mar. 13	Reports conversation with Mr. Castle regarding progress of Sir M. Lampson's negotiations and transfer of U.S. negotiations.	481
373	To MR. SNOW Tokyo No. 140	Mar. 13	Records conversation on March 9 between the Japanese Ambassador and Mr. Mounsey regarding British and Japanese policy on extraterritoriality.	481

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
374	MR. SNOW Tokyo No. 117	Mar. 18	Refers to Nos. 344 and 354 and discusses Chinese-Japanese relations: reports opening of discussions regarding railways in Manchuria.	482
375	TO SIR R. LINDSAY Washington Tel. No. 210	Mar. 20	Instructions to explain to State Dept. position reached by Sir M. Lampson in his negotiations on extraterritoriality.	484
376	SIR R. LINDSAY Washington Tel. No. 197	Mar. 23	Substance of No. 375 has been communicated to Dr. Hornbeck, who gave information regarding instructions to Mr. Johnson.	485
377	TO LORD TYRRELL Paris No. 641	Mar. 24	Records conversation on March 18 between Mr. Mounsey and French Ambassador regarding Sir M. Lampson's negotiations on extraterritoriality.	485
378	SIR M. LAMPSON Nanking Tel. No. 73 Tour	Mar. 27	Reports information from Japanese, U.S. and French colleagues regarding their negotiations on extraterritoriality.	486
379	SIR M. LAMPSON Nanking Tel. No. 74 Tour	Mar. 28	Reports information from Mr. Shigemitsu that French Govt. are anxious regarding British extraterritoriality negotiations.	486
380	SIR M. LAMPSON Nanking Tel. No. 87 Tour	Mar. 30	Reports conversation with Dr. Wang when abandonment of criminal jurisdiction was offered in exchange for H.M.G.'s desiderata concerning proposed reservation of certain areas from scope of extraterritoriality agreement.	487
381	SIR M. LAMPSON Nanking Tel. No. 92 Tour	Mar. 31	Reports information from Mr. Johnson that Chinese Govt. have invited U.S. Govt. to resume extraterritoriality negotiations in Washington.	488
382	SIR M. LAMPSON Nanking Tel. No. 89 Tour	Mar. 31	Refers to No. 380: has informed Mr. Johnson who is not seeing Dr. Wang regarding extraterritoriality.	489
383	SIR M. LAMPSON Nanking Tel. No. 91 Tour	Mar. 31	Refers to Nos. 379-80: reports conversation with French Minister regarding progress of French and British negotiations.	489
384	TO SIR M. LAMPSON Nanking Tel. No. 46 Tour	Apr. 2	Records conversation on April 1 with Chinese Minister who urged H.M.G. to make concessions in extraterritoriality negotiations.	490
385	TO SIR M. LAMPSON Nanking Tel. No. 47 Tour	Apr. 2	Transmits text of <i>aide-mémoire</i> regarding H.M.G.'s attitude in extraterritoriality negotiations handed to Chinese Minister on April 1.	491
386	SIR M. LAMPSON Nanking Tel. No. 102 Tour	Apr. 2	Reports conversation with Dr. Wang on April 1: no advance was made on conversation of March 30 (see No. 380).	491
387	SIR M. LAMPSON Nanking Tel. No. 95 Tour	Apr. 3	Requests instructions on certain points outstanding in extraterritoriality negotiations.	492
388	SIR M. LAMPSON Nanking Tel. No. 104 Tour	Apr. 4	Refers to No. 386 and reports conversation with Dr. Wang Chung-hui concerning the problem of the proposed reserved areas.	493

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
389	To SIR M. LAMPSON Peking Tel. No. 106	Apr. 13	Refers to No. 388 and discusses possibility of surrendering Shameen Concession.	494
390	SIR R. LINDSAY Washington Tel. No. 230	Apr. 14	Reports information from Mr. Castle that no reply has been made to Chinese invitation to resume negotiations in Washington (see No. 381).	494
391	To SIR M. LAMPSON Nanking Tel. No. 51 Tour	Apr. 16	Message from Mr. Orde reporting information from Japanese quarters that French Govt. might make concessions to Chinese Govt. relating to Hankow and Kwang-chouwan.	494
392	To SIR M. LAMPSON Nanking Tel. No. 52 Tour	Apr. 16	Refers to No. 387 and gives instructions requested.	495
393	SIR R. LINDSAY Washington No. 700	Apr. 16	Refers to No. 366: policy in the event of unilateral denunciation of extraterritoriality by China was discussed with Mr. Stimson and Mr. Castle on April 10.	496
394	SIR M. LAMPSON Nanking Tel. No. 109 Tour	Apr. 19	Reports satisfactory settlement of question of application to Dominions of proposed extraterritoriality treaty.	497
395	SIR M. LAMPSON Nanking Tel. No. 107 Tour	Apr. 20	Reports on conversation with M.F.A. regarding reserved areas: no progress was made.	498
396	SIR M. LAMPSON Nanking Tel. No. 112 Tour	Apr. 20	Reports on conversation with Dr. Wang Chung-hui: no progress was made in problem of reserved areas.	499
397	SIR M. LAMPSON Nanking Tel. No. 113 Tour	Apr. 21	Message for Sir V. Wellesley discussing difficulties regarding reserved areas: proposes to concede Hankow and Canton but insist on reservation of Tientsin and Shanghai.	500
398	To SIR M. LAMPSON Nanking Tel. No. 69 Tour	Apr. 21	Refers to No. 397 and records conversation with Chinese Minister regarding reserved areas.	500
399	MR. SNOW Tokyo Tel. No. 83	Apr. 22	Reports on conversation with Vice-M.F.A. regarding Japanese attitude to progress made by Sir M. Lampson in his negotiations.	501
400	SIR M. LAMPSON Nanking Tel. No. 114 Tour	Apr. 22	Reports conversation on extraterritoriality negotiations with French Minister to whom possibility of abandoning reservation of Canton was hinted.	501
401	SIR M. LAMPSON Nanking Tel. No. 119 Tour	Apr. 24	Reports information from U.S. Minister that M.F.A. was optimistic regarding early signature of Anglo-Chinese agreement on extraterritoriality.	502
402	MR. SNOW Tokyo Tel. No. 84	Apr. 27	Reports information from Japanese quarters regarding attitude of U.S. Govt. to rapid progress of Sir M. Lampson's negotiations.	503
403	To SIR M. LAMPSON Nanking Tel. No. 77 Tour	Apr. 27	Refers to Nos. 395-6 and discusses problems connected with proposed reserved areas, especially regarding other Powers concerned.	503

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
404	SIR M. LAMPSON Nanking Tel. No. 129 Tour	Apr. 27	Refers to No. 401 and reports information from U.S. Minister regarding State Dept.'s attitude towards problem of reserved areas.	505
405	SIR M. LAMPSON Nanking Tel. No. 137 Tour	Apr. 27	Refers to No. 398: M.F.A. has offered exclusion of Shanghai International Settlement only for three years.	506
406	MR. SNOW Tokyo Tel. No. 86	Apr. 28	Reports information from M.F.A. that Japanese Govt. would insist on rights of Japanese subjects in South Manchuria and Inner Mongolia.	506
407	SIR M. LAMPSON Nanking Tel. No. 139 Tour	Apr. 29	Reports that U.S. negotiations on extra-territoriality appear to have been transferred to Washington.	507
408	SIR M. LAMPSON Nanking Tel. No. 140 Tour	Apr. 29	Reports on conversation with Dr. Wang on April 27 regarding signature of proposed Anglo-Chinese extraterritoriality treaty.	507
409	TO SIR M. LAMPSON Nanking Tel. No. 82 Tour	Apr. 29	Instructions to insist on exclusion of Canton in view of French suggestion for joint enquiry into position of Shameen.	508
410	TO SIR M. LAMPSON Nanking Tel. No. 80 Tour	Apr. 29	Refers to Nos. 403 and 405 and explains why Dr. Wang's offer is unacceptable to H.M.G.: instructions to inform Dr. Wang of U.S. Govt.'s views recorded in No. 393.	508
411	TO SIR M. LAMPSON Nanking Tel. No. 83 Tour	Apr. 30	Refers to No. 408: instructions to discourage any idea of immediate signature.	509
412	SIR R. LINDSAY Washington Tel. No. 247	Apr. 30	Reports information from Mr. Stimson that offer similar to that recorded in No. 405 had been made to U.S. Govt. and would be rejected.	510
413	TO SIR R. LINDSAY Washington Tel. No. 295	May 1	Refers to No. 412: instructions to communicate to State Dept. summary of Nos. 403 and 410.	511
414	SIR M. LAMPSON Nanking Tel. No. 152 Tour	May 1	Reports that Nos. 403 and 410 were read to Dr. Wang on May 1: negotiations are now deadlocked: requests instructions on No. 397.	511
415	SIR M. LAMPSON Nanking Tel. No. 162 Tour	May 4	Refers to No. 410 and reports information from Dr. Wang regarding mandate relating to jurisdiction to be issued on May 4.	513
416	SIR M. LAMPSON Nanking Tel. No. 161 Tour	May 5	Reports conversation with Dr. Wang on May 4 when agreement regarding reserved areas seemed more hopeful: suggests agreement on lines of No. 397 would be satisfactory.	513
417	SIR M. LAMPSON Nanking Tel. No. 170 Tour	May 5	Refers to No. 415 and summarizes terms of mandate of May 4 regarding exercise of jurisdiction over foreigners in China.	514
418	TO SIR M. LAMPSON Nanking Tel. No. 96 Tour	May 5	Requests observations on present position of extraterritoriality negotiations.	515

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
419	SIR M. LAMPSON Nanking Tel. No. 172 Tour	May 6	Refers to No. 418 and discusses policy to be pursued in extraterritoriality negotiations, account being taken of Chinese internal situation and mandate of May 4.	515
420	SIR M. LAMPSON Nanking Tel. No. 173 Tour	May 6	Reports information from Mr. Shigemitsu regarding Japanese policy on extraterritoriality especially relating to Manchuria and the opening of the interior of China.	516
421	SIR M. LAMPSON Nanking Tel. No. 174 Tour	May 7	Reports conversation with U.S. Minister on May 6 regarding statement by Dr. Wang that U.S. Govt. were holding back H.M.G. in extraterritoriality negotiations.	517
422	TO SIR R. LINDSAY Washington Tel. No. 307	May 7	Instructions to represent to State Dept. that concessions by U.S. Govt. have adversely affected Sir M. Lampson's negotiations on article regarding personal status of British subjects in China.	517
423	MR. CAMPBELL Washington Tel. No. 264	May 10	Reports conversation on May 9 with Mr. Castle when No. 422 was discussed: Mr. Castle denied concessions had been made and blamed Chinese Minister in Washington for misunderstanding.	518
424	TO SIR R. LINDSAY Washington Tel. No. 313	May 11	Refers to No. 423 and repeats part of Nanking telegram No. 179 Tour reporting on new article on personal status drafted by State Dept.	519
425	SIR R. LINDSAY Washington Tel. No. 270	May 12	Refers to No. 413 and summarizes letter from Mr. Castle acknowledging communication based on Nos. 403 and 410 and agreeing with views expressed therein.	519
426	TO SIR M. LAMPSON Shanghai Tel. No. 102 Tour	May 13	Refers to Nos. 416 and 419 and approves suggested policy: authorizes concessions regarding Canton and Hankow on certain conditions.	520
427	TO SIR M. LAMPSON Shanghai Tel. No. 103 Tour	May 13	Message from Sir V. Wellesley referring to No. 426: no concession regarding Hankow and Canton may be made unless a settlement on extraterritoriality is reached.	520
428	TO FRENCH AMBASSADOR London	May 13	Refers to No. 409 and states that Sir M. Lampson has been authorized to surrender extraterritoriality in Canton and restore British concession of Shameen.	521
429	SIR M. LAMPSON Shanghai Tel. No. 191 Tour	May 15	Message for Sir V. Wellesley referring to No. 427 and commenting on difficulties in carrying out instructions in No. 426.	521
430	SIR M. LAMPSON Shanghai Tel. No. 193 Tour	May 17	Discusses the duration of the proposed treaty on extraterritoriality.	522
431	SIR M. LAMPSON Nanking Tel. No. 207 Tour	May 19	Discusses difficulties in obtaining satisfactory settlement on only outstanding points—reserved areas and duration.	523
432	TO SIR M. LAMPSON Nanking Tel. No. 117 Tour	May 19	Message from Sir V. Wellesley referring to No. 429 and commenting further on instructions in No. 426: argues against adjourning negotiations till autumn.	524

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
433 SIR M. LAMPSON Nanking Tel. No. 211 Tour	May 19	Reports on conversation on May 18 when M.F.A. raised question of cancelling 1901 Protocol: opening of negotiations for Anglo-Chinese commercial treaty was also discussed.	525
434 SIR M. LAMPSON Nanking Tel. No. 213 Tour	May 21	Reports that French and U.S. colleagues have been informed of No. 428.	526
435 SIR M. LAMPSON Nanking Tel. No. 214 Tour	May 21	Refers to No. 432 and reports conversation with Dr. Wang to whom suggested settlement of outstanding points was outlined.	526
436 SIR M. LAMPSON Nanking Tel. No. 216 Tour	May 22	Reports enquiry by M.F.A. on May 21 regarding possibility of withdrawal of foreign troops from Peking to Shanhai-kuan.	527
437 SIR M. LAMPSON Nanking Tel. No. 221 Tour	May 23	Transmits for approval text acceptable to Dr. Wang of draft article 21 regarding duration of proposed treaty.	527
438 SIR M. LAMPSON Nanking Tel. No. 225 Tour	May 24	Refers to No. 435 and reports conversation with Dr. Wang when progress was made towards agreement on reserved areas and duration.	528
439 SIR M. LAMPSON Nanking Tel. No. 226 Tour	May 24	Transmits text of draft article 16 and attached exchange of notes regarding reserved areas handed to Dr. Wang on May 24.	530
440 SIR M. LAMPSON Nanking Tel. No. 228 Tour	May 26	Refers to No. 438 and reports on continued discussion with M.F.A. on May 25, when Dr. Wang made satisfactory offer regarding reserved areas.	531
441 SIR M. LAMPSON Nanking Tel. No. 230 Tour	May 26	Transmits redraft of article 16 and attached exchange of notes to be handed to Dr. Wang on May 26.	532
442 SIR M. LAMPSON Nanking Tel. No. 233 Tour	May 26	Refers to No. 440 and reports further conversation when Dr. Wang withdrew his offer of May 25, but a new redraft of article 16 was jointly prepared.	534
443 To SIR M. LAMPSON Nanking Tel. No. 128 Tour	May 27	Requests views of joint committee of China Association and British Chamber of Commerce in Shanghai on proposals in No. 441: enquires whether proposals regarding Shanghai are in harmony with Judge Feetham's report on government of International Settlement.	535
444 SIR M. LAMPSON Nanking Tel. No. 240 Tour	May 28	Reports on conversations with Dr. Wang on May 27 when redraft of article 16 (see No. 442) was discussed: it was agreed to exchange copies of draft treaty under covering letters.	535
445 SIR R. LINDSAY Washington Tel. No. 297	May 28	Summarizes letter from Mr. Castle expressing State Dept.'s concurrence in views in Nos. 416, 419 and 426 regarding reserved areas.	536

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
446	SIR M. LAMPSON Nanking Tel. No. 244 Tour	May 28	Message for Sir V. Wellesley referring to No. 444: Dr. Wang gave gentleman's agreement to resume negotiations and sign treaty in autumn.	537
447	To SIR M. LAMPSON Nanking Tel. No. 130 Tour	May 29	Refers to No. 441 and discusses objections to provisions regarding Shanghai in draft article 16.	538
448	To SIR M. LAMPSON Nanking Tel. No. 134 Tour	May 30	Message from Sir V. Wellesley referring to No. 446: initialling of whole treaty cannot be approved owing to difficulties regarding reserved areas and duration.	539
449	SIR M. LAMPSON Nanking Tel. No. 248 Tour	May 31	Refers to Nos. 444 and 447 and requests instructions regarding draft treaty: discusses advantages of proposals regarding Shanghai.	539
450	SIR M. LAMPSON Nanking Tel. No. 250 Tour	June 1	Message for Sir V. Wellesley referring to No. 448 and asking for rapid despatch of instructions requested in No. 449.	540
451	To SIR M. LAMPSON Nanking Tel. No. 136 Tour	June 2	Message from Sir V. Wellesley referring to No. 450: despatch of instructions will be delayed.	541
452	To SIR M. LAMPSON Nanking Tel. No. 138 Tour	June 2	Message from Sir V. Wellesley referring to No. 451 and transmitting amendments to documents referred to in No. 444.	541
453	To SIR M. LAMPSON Nanking Tel. No. 137 Tour	June 2	Transmits amended text of draft article 21 relating to duration of proposed treaty.	541
454	To SIR M. LAMPSON Nanking Tel. No. 139 Tour	June 4	Refers to No. 449 and authorizes exchange of agreed copies of treaty subject to understanding regarding minor amendments.	542
455	To SIR M. LAMPSON Nanking No. 489	June 4	Records conversation on May 27 between Sir V. Wellesley and French Ambassador whose govt. deprecated rapid progress made by H.M.G. in reaching agreement on extraterritoriality.	543
456	To SIR M. LAMPSON Nanking Tel. No. 141 Tour	June 4	Refers to No. 454 and records conversation with Chinese Minister who was informed that H.M.G. could make no more concessions regarding reserved areas.	543
457	SIR M. LAMPSON Nanking Tel. No. 259 Tour	June 6	Refers to No. 454 and reports that copies of draft treaty were exchanged with Dr. Wang on June 6: reservations were made by each side.	544
458	SIR M. LAMPSON Nanking No. 157 Tour	June 6	Refers to No. 457 and transmits copies of the draft treaty and attached documents relating to jurisdiction in China as exchanged with Dr. Wang on June 6.	545
459	To SIR M. LAMPSON Peking Tel. No. 195	June 8	Refers to No. 457 and discusses forthcoming Parliamentary statements regarding results of extraterritoriality negotiations.	559
460	SIR M. LAMPSON Peking No. 806	June 8	Transmits full report on negotiations with Chinese Govt. regarding jurisdiction over British subjects in China, March-June, 1931.	559

CHAPTER VII

Discontinuation of Anglo-Chinese negotiations for the surrender of British extraterritorial rights in China (June 12, 1931-January 11, 1932)

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
461 SIR M. LAMPSON Peking Tel. No. 175	June 12	Refers to No. 459 and suggests lines of forthcoming Parliamentary statement: reports on extent of information given to French, Japanese and American colleagues.	602
462 To SIR M. LAMPSON Peking Tel. No. 208	June 19	Expresses appreciation of conduct of negotiations with Chinese Govt.	603
463 SIR M. LAMPSON Peking Tel. No. 182	June 19	Reports information from Mr. Johnson that State Dept. have refused Chinese request for transfer of extraterritoriality negotiations to Nanking.	603
464 To SIR M. LAMPSON Peking Tel. No. 212	June 22	Transmits text of proposed statement to Parliament regarding extraterritoriality negotiations.	604
465 SIR M. LAMPSON Peking Tel. No. 193	June 26	Refers to No. 464 and comments on proposed statement.	605
466 SIR M. LAMPSON Peking Tel. No. 195	June 30	Repeats Mr. Aveling's telegram No. 35 of June 25 regarding draft extraterritoriality treaty communicated to Dr. Wang by Japanese Chargé d'Affaires.	606
467 SIR M. LAMPSON Peking No. 923	June 30	Transmits copies of Hankow despatch No. 51 to Peking regarding Chinese Govt. orders for the assumption of jurisdiction over foreigners on January 1, 1932.	606
468 SIR M. LAMPSON Peking Tel. No. 211	July 4	Reports receipt of telegram from joint committee, Shanghai, to China Association, London, urging review of extraterritoriality negotiations in light of Feetham report.	608
469 SIR M. LAMPSON Peking Tel. No. 213	July 5	Repeats Mr. Aveling's telegram No. 52 referring to No. 464 and reporting conversation with Mr. Hsu Mo on July 4 regarding possible Parliamentary statement on extraterritoriality negotiations.	608
470 SIR M. LAMPSON Nanking Tel. No. 8 Tour New Series	July 31	Reports correspondence with U.S. Minister regarding State Dept.'s redraft of article 16 of draft extraterritoriality treaty.	609
471 SIR M. LAMPSON Peitaiho No. 1220	Aug. 20	Discusses a report by an advisory committee regarding the government of the British Municipal Area at Tientsin.	609
472 SIR M. LAMPSON Peking Tel. No. 316	Sept. 1	Reports information from U.S. Minister on position of U.S.-Chinese negotiations on extraterritoriality.	611

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
473	SIR M. LAMPSON Peking Tel. No. 353	Sept. 17	Message for Sir V. Wellesley discussing future policy on extraterritoriality. <i>Note 2.</i> Extract from Annual Report on China, 1931, regarding the Thorburn case.	612 612
474	SIR M. LAMPSON Peking Tel. No. 356	Sept. 17	Reports conversation with U.S. Minister regarding U.S.-Chinese extraterritoriality negotiations.	614
475	To SIR M. LAMPSON Peking Tel. No. 294	Sept. 30	Refers to Nos. 473-4 and discusses policy in connexion with possible reopening of negotiations on extraterritoriality.	615
476	To SIR M. LAMPSON Peking Tel. No. 299	Oct. 6	Refers to No. 470 and transmits memorandum communicated to U.S. Embassy on Oct. 5 regarding U.S. redraft of article 16 (reserved areas at Shanghai and Tientsin).	616
477	SIR M. LAMPSON Peking Tel. No. 481	Oct. 7	Refers to No. 475 and discusses suggested policy on extraterritoriality.	619
478	SIR M. LAMPSON Peking Tel. No. 592	Nov. 2	Suggests that an agreement should be made with Chinese Govt. on extraterritoriality during 1931: U.S. colleague concurs.	619
479	To SIR M. LAMPSON Peking Tel. No. 336	Nov. 4	Message from Sir V. Wellesley referring to No. 478: decision on extraterritoriality will be delayed till new cabinet formed.	620
480	SIR M. LAMPSON Nanking Tel. No. 309 Tour	Nov. 12	Reports conversation with Dr. Lee, Acting M.F.A., regarding postponement of implementation of mandate of May 4.	620
481	SIR M. LAMPSON Nanking No. 209 Tour	Nov. 26	Reports conversation with Dr. Koo, Acting M.F.A., regarding postponement of implementation of mandate of May 4.	621
482	SIR M. LAMPSON Nanking Tel. No. 385 Tour	Dec. 12	Reports conversation with Dr. Koo who enquired why extraterritoriality negotiations could not be resumed.	623
483	To SIR M. LAMPSON Shanghai Tel. No. 174 Tour	Dec. 17	Refers to Nos. 481 and 482: information regarding attitude of H.M.G. towards resumption of extraterritoriality negotiations: instructions to speak to M.F.A. regarding enforcement of mandate of May 4.	624
484	To H.M. REPRESENTATIVES Tokyo Tel. No. 175 Washington Tel. No. 864 Rome Tel. No. 290 Paris Tel. No. 33 Saving	Dec. 22	Refers to No. 483: instructions to enquire views of Govt. to which accredited regarding danger of Chinese Govt. disregarding extraterritoriality after January 1, 1932: instructions to Tokyo regarding co-operation with Japanese Govt.	625
485	SIR F. LINDLEY Tokyo No. 602	Dec. 23	Refers to Nos. 483-4 and reports conversation with Vice-M.F.A. when instructions carried out: <i>aide-mémoire</i> protesting against any attack on Chinchow also handed to Mr. Nagai.	626
486	SIR R. LINDSAY Washington Tel. No. 774	Dec. 29	Refers to No. 484 and reports conversation with Dr. Hornbeck regarding joint action if extraterritoriality disregarded by Chinese Govt.	627

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
487 SIR M. LAMPSON Peking Tel. No. 763	Dec. 31	Verbal message in terms of No. 483 has been delivered to Mr. Hsu Mo; in view of satisfactory terms of new mandate of December 29 no further action has been taken.	628
	1932		
488 To SIR R. LINDSAY Washington Tels. Nos. 2 and 3	Jan. 1	Refers to No. 486 and discusses proposed policy in light of Chinese mandate of December 29.	628
489 To H.M. REPRESENTATIVES Paris Tel. No. 2 Saving Rome Tel. No. 5 Tokyo Tel. No. 5	Jan. 1	Refers to Nos. 486 and 488: instructions to enquire whether Govt. to which accredited concur in policy suggested in No. 488.	629
490 SIR M. LAMPSON Peking Tel. No. 36	Jan. 11	Concurs in view that no action need be taken regarding Chinese mandate of December 29, 1931.	630

CHAPTER VIII

Correspondence regarding the situation in Manchuria and Korea before the Japanese occupation of Mukden (June 30–September 19, 1931)

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
491 SIR M. LAMPSON Peking No. 926	June 30	Transmits report No. XIV from Military Attaché regarding Japanese military displacements in Manchuria.	631
492 SIR F. LINDLEY Tokyo No. 364	July 10	Refers to Chinese-Japanese clash at Wanpaoshan and reports on ensuing anti-Chinese incidents in Korea and on communications thereon between Chinese and Japanese Govts.	633
493 SIR F. LINDLEY Tokyo No. 373	July 16	Refers to No. 492 and transmits Dairen despatch No. 67 of July 9 regarding Sino-Japanese relations in Manchuria: reports conversation with Japanese M.F.A. on July 15 respecting settlement of Wanpaoshan and Korean incidents with Chinese Govt.	634
494 SIR M. LAMPSON Peking No. 1040	July 18	Transmits report No. 16 from Military Attaché regarding dangerous state of Sino-Japanese relations in Manchuria.	638
495 SIR F. LINDLEY Tokyo No. 392	July 23	Records impressions of changes in Japan since 1908: comments on decline of British prestige there.	640
496 SIR F. LINDLEY Tokyo No. 393	July 24	Refers to No. 493 and reports conversation with Vice-M.F.A. regarding Chinese note of July 22 to Japanese Govt. setting out terms for settlement of Wanpaoshan incident.	645

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
497	MR. ROBERTS Foreign Office	July 27	Memorandum relating to Sino-Japanese relations in Manchuria and the Mukden negotiations on Manchurian railway problems.	646
498	SIR M. LAMPSON Peking No. 1128	Aug. 4	Transmits Shanghai despatch No. 212 of July 27 respecting the anti-Japanese boycott at Shanghai in protest against anti-Chinese agitation in Korea.	650
499	SIR F. LINDLEY Chuzenji No. 417	Aug. 20	Reports on Japanese reply of August 9 to Chinese note (see No. 496), and on conversation with Mr. Nagai regarding anti-Japanese agitation in China.	652
500	SIR F. LINDLEY Tokyo Tel. No. 144	Sept. 11	Reports information from Japanese Foreign Office concerning alleged murder by Chinese soldiers in Manchuria of Captain Nakamura of Japanese army.	653
501	MR. SAITO London	Sept. 11	Letter to Mr. Charles transmitting information on the murder of Captain Nakamura.	653
502	SIR F. LINDLEY Tokyo Tel. No. 146	Sept. 17	Refers to No. 500 and reports that M.F.A. considers settlement of Nakamura incident is likely.	654
503	SIR F. LINDLEY Tokyo No. 459	Sept. 17	Refers to Nos. 500 and 502 and suggests reasons for recent deterioration in Sino-Japanese relations; transmits Dairen despatch No. 78 of August 26 regarding tension in Manchuria.	655
504	SIR M. LAMPSON Peking Tel. No. 361	Sept. 18	Repeats Mr. Aveling's telegram No. 99 of September 11 summarizing memo. from Waichiaopu respecting evidence of alleged Japanese aggressive designs in Manchuria and Mongolia.	660
505	MR. CHARLES Foreign Office	Sept. 19	Memorandum respecting Sino-Japanese relations.	661

CHAPTER IX

Japanese military action in Manchuria: the Chinese appeal to the League of Nations: the Council's resolution of September 30: attempts to settle the Sino-Japanese dispute by direct negotiation (September 19–October 14, 1931)

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
506	SIR M. LAMPSON Peking Tel. No. 365	Sept. 19	Reports that Japanese military occupied Mukden at 1 a.m.	665
507	SIR M. LAMPSON Peking Tel. No. 367	Sept. 19	Refers to No. 506 and reports conversation with Dr. Koo on behalf of Marshal Chang concerning Japanese action in Manchuria.	665
508	SIR F. LINDLEY Tokyo Tel. No. 151	Sept. 20	Considers that Japanese General Staff acted in Manchuria without authority of Japanese Govt.	667

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
509 SIR F. LINDLEY Tokyo Tel. No. 152	Sept. 20	Comments on exasperating policy of Chinese Govt. in Manchuria and on probable favourable reaction on British interests of Japanese action.	667
510 SIR M. LAMPSON Peking Tel. No. 374	Sept. 20	Reports on interview with Marshal Chang Hsueh-liang regarding Manchurian situation.	668
511 SIR M. LAMPSON Peking Tel. No. 375	Sept. 21	Records views expressed by General Wu Tieh-cheng on Japanese aims in Manchuria: comments on Japanese version of incident at Mukden.	668
512 SIR M. LAMPSON Peking Tel. No. 379	Sept. 21	Repeats Mr. Aveling's telegram No. 114 of September 20 transmitting message from Dr. Wang that Chinese Government had appealed to signatories of League of Nations Covenant and Kellogg Peace Pact.	670
513 MR. MACKILLOP Foreign Office	Sept. 21	Record of conversation with Dr. Chen who left <i>aide-memoire</i> summarizing information received from Nanking on Manchurian situation.	670
514 MR. CADOGAN Geneva Tel. Unnumbered L.N.	Sept. 22	Message for Sir W. Selby referring to Chinese appeal to Council and reporting Lord Cecil's view that Council should demand evacuation by Japanese with a view to negotiations: reports conversation with M. Massigli and Japanese representative regarding use of neutral observers in Manchuria.	672
515 To MR. PATTESON Geneva Tel. No. 113	Sept. 22	Refers to No. 514 and approves suggestion to put withdrawal of troops and despatch of neutral observers in one proposal: is reluctant to suggest to U.S. Govt. that they should use moderating influence in Tokyo.	673
516 SIR F. LINDLEY Tokyo Tel. No. 155	Sept. 22	Reports that on September 21 Japanese Cabinet came to no decision respecting evacuation of points occupied in Manchuria.	673
517 SIR F. LINDLEY Tokyo Tel. No. 158	Sept. 22	Reports information from M.F.A. regarding position and number of Japanese troops in Manchuria, the attitude of the Soviet Govt. and proposal by Mr. Soong for Sino-Japanese commission to settle questions in dispute in Manchuria.	674
518 SIR M. LAMPSON Peking Tel. No. 382	Sept. 22	Refers to No. 511 and reports conversation regarding Manchurian situation with Marshal Chang who stated that Japanese were preparing for semi-permanent occupation of Mukden.	675
519 MR. PATTESON Geneva Tel. No. 109 L.N.	Sept. 22	Reports on meeting at Geneva on September 22, when it was decided to ask for views of Chinese and Japanese Govts. on despatch to Manchuria of neutral observers to report to Council.	676

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
520	MR. PATTESON Geneva Tel. No. 115 L.N.	Sept. 23	Message from Lord Cecil reporting that French Govt. are instructing their Ambassador at Tokyo to make representations to Japanese M.F.A. regarding gravity of Manchurian situation and emphasizing obligations of membership of League.	677
521	SIR F. LINDLEY Tokyo • Tel. No. 159	Sept. 23	Refers to No. 511: considers Japanese action in Manchuria was intended solely to force Chinese authorities to settle long-standing disputes there.	678
522	SIR M. LAMPSON Peking Tel. No. 394	Sept. 23	Reports latest developments connected with Manchurian dispute.	678
523	TO SIR F. LINDLEY Tokyo Tel. No. 112	Sept. 24	Refers to No. 520: instructions to take action similar to that of French colleague.	679
524	MR. OSBORNE Washington Tel. No. 590	Sept. 24	Reports interview with Mr. Castle regarding Manchurian dispute: policy of U.S. Govt. is to co-operate with League subject to certain reservation.	679
525	MR. STRANG Moscow Tel. No. 165	Sept. 24	Reports conversation with M. Litvinov who stated that Soviet Govt. disapproved of Japanese action in Manchuria as being imperialist.	680
526	SIR F. LINDLEY Tokyo Tel. No. 163	Sept. 24	Refers to No. 523: as his colleagues had not received instructions, unofficial representations were made to Vice-M.F.A.	681
527	SIR F. LINDLEY Tokyo Tel. No. 164	Sept. 24	Reports view of French colleague that by anti-Japanese policy in Manchuria Chinese Govt. provoked Japanese action which will benefit foreign interests in China.	681
528	SIR F. LINDLEY Tokyo Tel. No. 160	Sept. 25	Refers to No. 526 and reports that colleagues are still without instructions: will speak to M.F.A. in same sense as to Vice-M.F.A.: declaration by Japanese Govt. published that morning.	682
529	TO MR. PATTESON Geneva Tel. No. 139	Sept. 25	Message for Lord Cecil referring to No. 528: instructions to enquire why French Ambassador in Tokyo has not received instructions described in No. 520.	683
530	SIR F. LINDLEY Tokyo Tel. No. 165	Sept. 25	Refers to No. 528 and reports conversation with M.F.A. who stated that Japanese troops would be withdrawn in Manchuria when safety of Japanese lives and property was assured.	683
531	SIR F. LINDLEY Tokyo Tel. No. 166	Sept. 25	Refers to No. 530; M.F.A. deplored proposal to send League observers to Manchuria: emphasizes importance attached by Japan to her interests in Manchuria and warns of risk of League's meeting with damaging rebuff.	684
532	SIR M. LAMPSON Peking Tel. No. 410	Sept. 25	Repeats telegram No. 118 of September 24 from Mr. Ingram referring to No. 534 and reporting information from Mr. Soong	685

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
		that Chinese would resist any Japanese attack on Chefoo, Tsingtao, Shanghai or Nanking.	
533 MR. STRANG Moscow Tel. No. 168	Sept. 26	Reports opinion that Soviet Govt. view Far Eastern situation with some satisfaction.	685
534 SIR M. LAMPSON Peking Tel. No. 416	Sept. 27	Repeats Mr. Ingram's telegram No. 117 of September 24 reporting conversation with Mr. Soong regarding Japanese proposals for direct Sino-Japanese negotiations on Manchuria and rumours that Manchu prince would be set up at Mukden.	686
535 To MR. OSBORNE Washington Tel. No. 686	Sept. 28	Refers to No. 524: instructions to inform Mr. Castle that his views closely coincide with those of H.M.G.	687
536 SIR F. LINDLEY Tokyo Tel. No. 172	Sept. 28	Refers to No. 537: considers that Japanese Govt. may encourage independent movement in Manchuria but not new dynasty.	687
537 SIR F. LINDLEY Tokyo Tel. No. 171	Sept. 28	Refers to No. 534 and reports information from M.F.A. that Japanese officials in Manchuria had instructions not to meddle in local politics.	688
538 To SIR F. LINDLEY Tokyo Tel. No. 115	Sept. 29	Refers to No. 531: instructions to report what representations French colleague has made and to explain to Japanese M.F.A. that H.M.G. acted in belief that other Govts. were acting similarly.	688
539 MR. PATTESON Geneva Tel. No. 121 L.N.	Sept. 29	Message from Lord Cecil reporting on Council's proceedings concerning Manchuria: Japanese Delegate has reported withdrawals by Japanese troops.	689
540 SIR F. LINDLEY Tokyo Tel. No. 174	Sept. 29	Refers to No. 530: reports information from M.F.A. that orders have been sent for withdrawal of Japanese forces to railway zone when safety of Japanese lives and property permitted.	690
541 SIR M. LAMPSON Peking Tel. No. 426	Sept. 29	Reports growing movement in China towards relying on Soviet help.	691
542 To SIR F. LINDLEY Tokyo No. 504	Sept. 29	Records conversation with Japanese Ambassador respecting anti-Japanese riots in Hong Kong on September 26 and respecting Manchuria: Mr. Matsudaira stated that Japan had no territorial or political ambitions.	692
543 SIR F. LINDLEY Tokyo Tel. No. 178	Sept. 30	Transmits information requested in No. 538: reports further on representations made to Japanese M.F.A.	693
544 SIR M. LAMPSON Peking Tel. No. 442	Sept. 30	Reports on representations made to Secretary of Japanese Legation regarding attack by Japanese aeroplane on passenger train on Peking-Mukden Railway.	694
545 SIR M. LAMPSON Peking Tel. No. 432	Sept. 30	Repeats Mr. Ingram's telegram No. 128 of September 28 referring to No. 547: Mr. Soong stated that war with Japan	695

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
		would be better than China's falling into communist hands: comments on difficulty of Chinese Govt.'s position.	
546 SIR M. LAMPSON Peking Tel. No. 441	Oct. 1	Repeats Shanghai telegram No. 139 of September 29 transmitting request for assistance from British and Chinese Corporation in view of Japanese interference with Peking-Mukden Railway.	695
547 SIR M. LAMPSON Peking Tel. No. 431	Oct. 1	Repeats Mr. Ingram's telegram No. 127 of September 28 referring to No. 534 and reporting Mr. Soong's view that Council's resolution of September 30 has increased anti-govt. agitation in China.	696
548 SIR F. LINDLEY Tokyo Tel. No. 182	Oct. 1	Refers to No. 544 and reports that Vice-M.F.A. was informed of unfortunate impression made by incident.	697
549 MR. STRANG Moscow No. 511	Oct. 1	Reports information regarding Soviet attitude towards Manchurian situation.	697
550 SIR F. LINDLEY Tokyo No. 479	Oct. 1	Refers to No. 503 and discusses reasons for and future development of Japanese action in Manchuria.	698
551 SIR F. LINDLEY Tokyo No. 480	Oct. 1	Reports on course of events in Manchuria since September 18.	703
552 TO SIR M. LAMPSON Peking No. 821	Oct. 2	Records statements regarding events in Manchuria made during calls at F.O. by Chinese Chargé d'Affaires on September 21 and 23 and by Japanese Ambassador on September 22.	704
553 SIR M. LAMPSON Peking Tel. No. 445	Oct. 3	Reports that Dr. Koo evidently appreciates limits to powers of League of Nations and need for direct Sino-Japanese negotiations.	706
554 SIR M. LAMPSON Peking Tel. No. 447	Oct. 3	Reports Dr. Koo's view of pro-Russian movement referred to in No. 541: information from Dr. Koo regarding possible Soviet reactions if Japanese advanced into North Manchuria.	706
555 SIR M. LAMPSON Peking Tel. No. 460	Oct. 4	Repeats Mr. Ingram's telegram No. 134 of September 30 referring to No. 545 and reporting views of Dr. Soong and Admiral Chen in favour of declaring war on Japan.	707
556 SIR M. LAMPSON Peking Tel. No. 465	Oct. 5	Repeats Mr. Ingram's telegram No. 144 by October 3 transmitting text of note to Sir M. Lampson from Chinese Govt. requesting despatch of representatives of members of Council to collect information on situation in Manchuria.	707
557 SIR M. LAMPSON Peking Tel. No. 467	Oct. 5	Transmits report by Military Attaché on military situation in Manchuria up to September 30 and discussing responsibility for events of September 18, and possible peace offer to Japanese by Marshal Chang.	708

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
558	SIR M. LAMPSON Peking Tel. No. 471	Oct. 5	Reports on discussion with principal colleagues of message in No. 556: despatch of representatives to Manchuria was recommended: requests instructions.	710
559	MR. PATTESON Geneva Tel. No. 29	Oct. 6	Transmits message for Mr. Cadogan from Sir E. Drummond regarding need for accurate information from Manchuria and attendance of M.F.A.s at Council meeting on October 14.	712
560	To SIR M. LAMPSON Peking Tel. No. 303 To SIR F. LINDLEY Tokyo Tel. No. 123	Oct. 6	Instructions to act similarly to French colleague if he receives instructions on lines suggested in No. 562.	712
561	To H.M. REPRESENTATIVES Washington Tel. No. 708 Berlin Tel. No. 207 Rome Tel. No. 262 Madrid Tel. No. 70	Oct. 6	Instructions to inform Govt. to which accredited of Nos. 556, 558 and 562 and to enquire whether they will take similar action.	713
562	To LORD TYRRELL Paris Tel. No. 271	Oct. 6	Refers to Nos. 556 and 558: instructions to suggest to French Govt. that in view of warlike feeling in China, French representatives at Peking and Tokyo should be instructed to counsel moderation and French observer should be sent to Manchuria from Peking: H.M.G. would take similar action.	713
563	To LORD TYRRELL Paris	Oct. 6	Letter from Sir R. Vansittart quoting extracts from Nos. 514, 520, 523, 526, 530, 531 and 543 which appear to show failure of French Govt. to co-operate in action at Tokyo.	714
564	SIR M. LAMPSON Peking Tel. No. 472	Oct. 7	Reports conversation with Dr. Koo regarding possible arrangements for Japanese evacuation of Manchuria and political situation in China.	715
565	SIR M. LAMPSON Peking Tel. No. 476	Oct. 7	Repeats Mr. Ingram's telegram No. 149 reporting on a conversation with General Wu Tieh-cheng regarding dangerous state of Chinese public feeling against Japan.	716
566	SIR M. LAMPSON Peking Tel. No. 484	Oct. 7	Refers to Nos. 560 and 562 and reports that French Minister has received contrary instructions but agrees with Sir M. Lampson in recommending prompt despatch of observers.	717
567	MR. PATTESON Geneva Tel. No. 31	Oct. 7	Message from Sir E. Drummond to Mr. Cadogan referring to Nos. 556, 558 and 562 and discussing proposed despatch of observers to Manchuria.	717

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
568	SIR F. LINDLEY Tokyo Tel. No. 184	Oct. 7	Reports on conversations with Chinese Minister and Japanese Vice-M.F.A. regarding Sino-Japanese relations.	718
569	SIR F. LINDLEY Tokyo Tel. No. 185	Oct. 7	French Ambassador agrees in desirability of despatch of observers from Peking to Manchuria: suggests need for counsels of moderation at Nanking not Tokyo.	719
570	SIR F. LINDLEY Tokyo Tel. No. 186	Oct. 7	Refers to No. 569 and stresses importance of urging Chinese Govt. to negotiate directly and promptly with Japanese Govt.	720
571	LORD TYRRELL Paris Tel. No. 235	Oct. 7	Refers to No. 562: French Govt. will instruct representatives at Tokyo and Peking to urge moderation: Legation representatives will visit Manchuria.	720
572	CHINESE CHARGÉ D'AFFAIRES London	Oct. 7	Note stating that National Govt. of China consider as illegal Peace Preservation Committee set up in three eastern provinces of Manchuria.	721
573	SIR E. DRUMMOND Geneva	Oct. 7	Record of interview with Dr. Sze regarding the situation in Shanghai, Nanking and Manchuria, and the proposed despatch of observers from Peking to Manchuria.	721
574	SIR M. LAMPSON Peking Tel. No. 479	Oct. 8	Repeats Shanghai telegram No. 142 of October 2 transmitting message to Lord Lothian from Mr. Lionel Curtis who stated that he had been warned by Dr. Soong that Nanking Govt. might be succeeded by Soviet type govt. if Japanese evacuation of Manchuria were not promptly obtained.	724
575	SIR M. LAMPSON Peking Tel. No. 480	Oct. 8	Comments on No. 574.	724
576	TO LORD TYRRELL Paris Tel. No. 278	Oct. 8	Refers to Nos. 566, 569 and 571: instructions to enquire whether French Govt. will definitely send representatives to Manchuria. <i>Note 4.</i> Paris telegram No. 236 states in reply that French Minister in Peking has been authorized to send representative to Manchuria.	725 725
577	TO SIR M. LAMPSON Peking Tel. No. 308	Oct. 8	Instructions regarding type of information required concerning situation in Manchuria.	725
578	SIR M. LAMPSON Peking Tel. No. 497	Oct. 8	Refers to No. 566 and reports that Military Attaché and Third Secretary leave for Manchuria on October 9.	726
579	SIR M. LAMPSON Peking Tel. No. 492	Oct. 8	Discusses advantages of remaining at Peking or going to Nanking.	726
580	SIR M. LAMPSON Peking Tel. No. 498	Oct. 8	Since despatch of No. 578 Chinchow has been bombed by Japanese: damage to Peking-Mukden railway prevents departure of observers.	727

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
581	SIR M. LAMPSON Peking Tel. No. 72 to C.-in-C. Tel. No. 500 to F.O.	Oct. 8	Informs Admiral Kelly of menacing situation in China and suggests fleet should be prepared for possible developments.	727
582	SIR E. DRUMMOND Geneva	Oct. 8	Letter to Mr. Cadogan discussing (a) information from Japanese official regarding Japanese policy on withdrawal in Manchuria: (b) the forthcoming meeting of the Council.	728
583	SIR M. LAMPSON Peking Tel. No. 255 to Nanking Tel. No. 485 to F.O.	Oct. 9	Refers to Nos. 560, 562 and 566 and instructs Mr. Ingram to counsel moderation on Chinese Govt. in name of H.M.G.	730
584	SIR M. LAMPSON Peking Tel. No. 494	Oct. 9	Repeats telegram of October 6 from Mr. Ingram referring to No. 556 and reporting information from Vice-M.F.A. that Japanese Govt. had been informed that Chinese Govt. had nominated delegates to negotiate with Japanese authorities in Manchuria.	731
585	MR. PATTESON Geneva Tel. No. 33	Oct. 9	Message from Sir E. Drummond to Mr. Cadogan: repeats message of October 7 to Dr. Rajchman, League official in China, instructing him to urge Chinese Govt. to control anti-Japanese movement in China: also repeats Dr. Rajchman's reply which explains difficulties of Chinese Govt.	731
586	TO SIR M. LAMPSON Peking Tel. No. 310	Oct. 9	Instructions to impress on the Chinese Govt. need for moderation and desirability of reaching understanding with Japanese Govt. without making evacuation a condition precedent.	733
587	TO SIR F. LINDLEY Tokyo Tel. No. 127	Oct. 9	Refers to bombing of Chinchow: instructions to urge on Japanese Govt. necessity for moderation and remind them of British interest in Peking-Mukden railway.	733
588	SIR M. LAMPSON Peking Tel. No. 512	Oct. 9	Message from Military Attaché for War Office: information from U.S. colleague regarding Japanese plans for further forward action in Manchuria and possibly against Nanking.	734
589	SIR F. LINDLEY Tokyo Tel. No. 190	Oct. 9	Refers to No. 590 and comments on impressions left by interview: reports Japanese naval movement towards Shanghai.	734
590	SIR F. LINDLEY Tokyo Tel. No. 189	Oct. 9	Reports conversation with M.F.A. to whom bombing of Chinchow was deplored: possibility of Sino-Japanese negotiations was also discussed.	735
591	SIR M. LAMPSON Peking Tel. No. 513	Oct. 9	Repeats Nanking telegram No. 76 regarding possibility of Chinese agitation against foreigners generally and of Japanese attack on Nanking.	736
592	MR. ORDE Foreign Office	Oct. 9	Record of conversation with Chinese Chargé d'Affaires who communicated memorandum regarding possible Japanese attack on Chinese coast and verbal request for despatch of British observers to Manchuria.	737

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
593	MR. RAMSAY MACDONALD London	Oct. 9	Letter to Secretary of State stressing the importance of his attending the Council meeting on October 14.	738
594	SIR M. LAMPSON Peking Tel. No. 511	Oct. 10	Repeats Mr. Ingram's telegram No. 159 reporting a conversation on October 6 with Mr. W. W. Yen who argued that it was in British interests to support China's case before the League.	739
595	SIR F. LINDLEY Tokyo Tel. No. 191	Oct. 10	Refers to No. 589 and suggests likely policy of Japanese Govt. in regard to anti-Japanese boycott and Manchuria.	740
596	SIR M. LAMPSON Peking Tel. No. 507	Oct. 10	Refers to Nos. 562 and 583 and reports reply of Marshal Chang to whom counsels of moderation were also addressed.	740
597	SIR M. LAMPSON Peking Tel. No. 488	Oct. 10	Repeats Mr. Ingram's telegram No. 161 of October 6 transmitting information from Reuter's correspondent regarding plans for use of National Govt. troops in Manchuria and internal situation in China.	741
598	TO SIR M. LAMPSON Peking Tel. No. 312	Oct. 10	Refers to No. 579: Sir M. Lampson is to decide where he should be.	741
599	SIR M. LAMPSON Peking Tel. No. 520	Oct. 10	Refers to No. 586: has already counselled moderation: requests reconsideration of instructions regarding Sino-Japanese negotiations.	742
600	MR. OSBORNE Washington Tel. No. 633	Oct. 10	Reports that State Dept. have been informed of departure of British observers for Manchuria: information regarding U.S. action.	742
601	SIR F. LINDLEY Tokyo Tel. No. 193	Oct. 10	Refers to No. 602: infers that M.F.A. expected that General Chiang Kai-shek would be eliminated.	743
602	SIR F. LINDLEY Tokyo Tel. No. 192	Oct. 10	Reports conversation with M.F.A. regarding bombing of Chinchow when instructions in No. 587 carried out.	743
603	SIR M. LAMPSON Peking Tel. No. 505	Oct. 10	Discusses effect of Sino-Japanese crisis on position of National Govt. and on standing of League of Nations: suggests appointment of League commission of investigation.	744
604	SIR M. LAMPSON Peking Tel. No. 519	Oct. 10	Gist of Nos. 586 and 599 has been imparted to Dr. Koo for informal communication to President Chiang Kai-shek.	745
605	LORD TYRRELL Paris	Oct. 10	Letter to Sir R. Vansittart in reply to No. 563: records conversation with M. Masigli who explained how misunderstanding regarding joint action at Tokyo had arisen.	746
606	SIR M. LAMPSON Peking Tel. No. 525	Oct. 11	Repeats Mr. Ingram's telegram No. 172 referring to No. 583 and reporting a conversation on October 10 with Dr. Soong when instructions carried out.	747

NO. AND NAME	DATE	MAIN SUBJECT	PAGE
607 SIR F. LINDLEY Tokyo Tel. No. 195	Oct. 11	Refers to No. 604: information from M.F.A. that he had explained to Chinese Minister that Japanese forces were occupying only a few posts outside railway zone in Manchuria.	748
608 SIR F. LINDLEY Tokyo Tel. No. 196	Oct. 11	Refers to No. 607: French and U.S. colleagues made representations to M.F.A. on October 11: they agree that crisis can only be resolved by direct Sino-Japanese negotiations.	748
609 SIR M. LAMPSON Peking Tel. No. 521	Oct. 11	Refers to No. 591: Mr. Ingram reports growing popular agitation might lead to fall of govt., rapprochement with Russia and war with Japan unless China obtains diplomatic victory at Council meeting.	749
610 SIR M. LAMPSON Peking Tel. No. 523	Oct. 11	Consul-General at Shanghai reports that Chinese authorities are taking precautions against anti-Japanese disorders.	749
611 SIR M. LAMPSON Peking Tel. No. 527	Oct. 11	Repeats Mr. Ingram's telegram No. 171 of October 10 reporting information from Dr. Soong that in event of war govt. would withdraw to interior of China.	750
612 SIR M. LAMPSON Peking Tel. No. 280 to Nanking Tel. No. 529 to F.O.	Oct. 11	Instructions to Mr. Ingram to urge on Acting M.F.A. and Dr. Soong folly of China's declaring war on Japan: telegram should be shown to Dr. Koo for communication to General Chiang.	750
613 MR. PHILLIPS Canton Tel. No. 120 to Peking Tel. No. 26 to F.O.	Oct. 11	Reports that clash occurred in Canton on October 10 between anti-Japanese demonstrators and police.	751
614 MR. PHILLIPS Canton Tel. No. 121 to Peking Tel. No. 27 to F.O.	Oct. 11	Reports information from Japanese Consul-General that if Chinese Govt. did not give satisfaction regarding anti-Japanese boycott, Japanese fleet might take action.	751
615 To H.M. REPRESENTATIVES Paris Tel. No. 284 Washington Tel. No. 722 Rome Tel. No. 270 Berlin Tel. No. 212 Madrid Tel. No. 76	Oct. 12	Instructions to inform govt. to which accredited of No. 616.	752
616 To SIR M. LAMPSON Peking Tel. No. 313	Oct. 12	Refers to No. 599 and withdraws instructions in No. 586 regarding Sino-Japanese negotiations.	752
617 To MR. PATTESON Geneva Tel. No. 173	Oct. 12	Message for Mr. Cadogan regarding communication to State Dept. of information in No. 557.	753

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
618	SIR M. LAMPSON Peking Tel. No. 535	Oct. 12	Message for Sir E. Drummond from Mr. Walters of League Secretariat endorsing views expressed in No. 603 and discussing suggestion for procedure at Council meeting.	753
619	SIR M. LAMPSON Peking Tel. No. 539	Oct. 12	Refers to Nos. 606 and 583 and reports steps taken by Chinese Govt. to ease the situation at Nanking.	754
620	MARQUESS OF READING Geneva	Oct. 12	Record of conversation with Mr. Yoshizawa who indicated Japanese Govt.'s views on the Sino-Japanese dispute.	755
621	SIR J. PRATT Geneva	Oct. 12	Memorandum respecting Manchuria and the political background of the Sino-Japanese dispute.	756
622	SIR M. LAMPSON Peking Tel. No. 531	Oct. 13	Repeats Mr. Ingram's telegram No. 170 reporting interview on October 9 with Acting M.F.A. regarding danger of further Sino-Japanese incident.	759
623	SIR M. LAMPSON Peking Tel. No. 541	Oct. 13	Reports conversation with Secretary of Japanese Legation regarding despatch of British observers to Manchuria and Japanese policy towards China.	760
624	MR. PATTESON Geneva Tel. Unnumbered	Oct. 13	Repeats Tokyo telegram No. 1 of October 12 giving appreciation of Far Eastern situation for Secretary of State.	761
625	MR. PATTESON Geneva Tel. Unnumbered	Oct. 13	Repeats Tokyo telegram No. 2 of October 13 regarding meetings between Japanese Prime Minister and Opposition leaders.	762
626	SIR M. LAMPSON Peking Tel. No. 555	Oct. 13	Repeats Mr. Ingram's telegram No. 181 referring to No. 612: Dr. Soong stated on October 12 that China would not declare war on Japan unless provoked.	763
627	MR. STRANG Moscow No. 537	Oct. 13	Reports on action taken by the Soviet Govt. in connexion with the situation in Manchuria.	763
628	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 14	Repeats Tokyo telegram No. 3 of October 14 giving Japanese figures for number of Japanese subjects murdered in South Manchuria.	766
629	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 14	Repeats message for Sir W. Selby from Sir M. Lampson suggesting Japanese Govt. should be urged to accept neutral observers in negotiations with Chinese Govt.	766
630	SIR M. LAMPSON Peking Tel. No. 565	Oct. 14	Repeats Mr. Ingram's telegram No. 180 reporting a conversation on October 12 with Japanese Minister who stated agitation against Japan must be curbed before Manchurian problem could be approached.	767

CHAPTER X

Japanese military activities in Manchuria: invitation to the United States Government to be represented at the Council of the League of Nations: appeal to the Chinese and Japanese Governments under the Pact of Paris: the Council's resolution of October 24 (October 14-24, 1931)

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
631	MR. PATTESON Geneva Tel. No. 129 L.N.	Oct. 14	Reports on private meeting of Council on October 14: collaboration with U.S. Govt. and attempts to solve Sino-Japanese dispute were discussed.	768
632	MR. PATTESON Geneva Tel. No. 3 to Nanking Tel. No. 130 L.N. to F.O.	Oct. 14	Message from Secretary of State to Sir M. Lampson referring to No. 631: instructions to urge Chinese Govt. to show restraint.	769
633	MR. PATTESON Geneva Tel. No. 4 to Nanking Tel. No. 1 to Peking Tel. No. 131 L.N. to F.O.	Oct. 14	Message from Secretary of State stressing importance of no clash occurring between Chinese and Japanese armed forces and of safety of Japanese civilians and detachments being assured.	769
634	SIR M. LAMPSON Peking Tel. No. 556	Oct. 14	Repeats Mr. Ingram's telegram No. 177 of October 12 referring to No. 604: easing of tension due to earlier counsels of moderation has been prejudiced by message in No. 586.	770
635	MR. PHILLIPS Canton Tel. No. 78 to Nanking Tel. No. 30 to F.O.	Oct. 14	Refers to No. 614 and reports conversation with Mr. Eugene Chen regarding prospects of forming new Chinese Govt. and opposing policies towards Japan of Mr. Chen and General Chiang.	770
636	SIR J. PRATT Geneva	Oct. 14	Record of conversation with Dr. Sze regarding Chinese policy of reliance on League in Manchurian dispute and abrogation of Unequal Treaties.	771
637	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 15	Repeats Tokyo telegram No. 4 referring to No. 628 and questioning whether maintenance of Japanese troops outside S. Manchuria railway zone is due less to recent murders than to Japanese hostility to Marshal Chang.	772
638	TO MR. PATTESON Geneva Tel. No. 188	Oct. 15	Repeats message of October 14 from Military Attaché, Peking, reporting Japanese troop movements towards Chinchow along Peking-Mukden railway.	773
639	SIR M. LAMPSON Nanking Tel. No. 1 to Geneva Tel. No. 263 Tour to F.O.	Oct. 15	Need for caution has been stressed in conversation with Acting M.F.A. and Dr. Soong, who spoke of reaction which would follow failure by League to do justice to China.	773
640	SIR M. LAMPSON Nanking Tel. No. 404 to Peking Tel. No. 264 Tour to F.O.	Oct. 15	Refers to No. 633 and instructs Mr. Holman to obtain the necessary assurances from Marshal Chang Hsueh-liang: similar assurance is being obtained from Nanking Govt.	773

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
641	SIR M. LAMPSON Nanking Tel. No. 267 Tour	Oct. 15	Refers to No. 633 and repeats telegram from Chinese Govt. to Dr. Sze, Geneva, giving requested assurances and urging Powers to send observers to Shanhaikuan in view of threatened Japanese action there.	774
642	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 16	Repeats Nanking telegram No. 266 Tour to F.O. (No. 2 to Geneva) reporting a conversation with President Chiang on October 15 when prospects of solution of crisis were discussed.	775
643	MR. OSBORNE Washington Tel. No. 1 to Geneva Tel. No. 643 to F.O.	Oct. 16	Message for Secretary of State reporting a conversation with Mr. Stimson regarding co-operation between U.S. Govt. and Council.	776
644	MR. PATTESON Geneva Tel. No. 6 to Tokyo Tel. No. 138 L.N. to F.O.	Oct. 16	Message from Secretary of State referring to No. 646: instructions to Sir F. Lindley to urge Japanese Govt. to adopt a more helpful attitude towards solving Sino-Japanese problem.	777
645	MR. HOLMAN Peking Tel. No. 121 to Nanking Tel. No. 572 to F.O.	Oct. 16	Refers to No. 640: Marshal Chang has given assurances requested: British observers are being sent to Chinchow.	778
646	MARQUESS OF READING Geneva	Oct. 16	Record of conversation with Mr. Yoshizawa regarding assurances which might be given to Japanese Govt. in return for evacuation in Manchuria.	779
647	MR. PATTESON Geneva Tel. No. 140 L.N.	Oct. 17	Message from Secretary of State recording conversation with U.S. Representative regarding Mr. Stimson's wish for invocation of Pact of Paris: discusses means of doing this.	781
648	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 17	Repeats Sir M. Lampson's telegram No. 271A Tour to F.O. (No. 5 to Geneva) reporting a conversation on October 16 with President Chiang when solutions suggested in No. 631 were discussed.	782
649	MR. PATTESON Geneva Tel. No. 9 to Tokyo Tel. No. 10 to Nanking Tel. Unnumbered L.N. to F.O.	Oct. 17	Instructions from Secretary of State to draw attention of Govt. to which accredited to terms of Pact of Paris in connexion with Sino-Japanese dispute.	783
650	MR. HOLMAN Peking Tel. No. 124 to Nanking Tel. No. 575 to F.O.	Oct. 17	Transmits paraphrase of report from Mr. Stirling dated October 15 regarding situation in Manchuria.	784
651	MR. PATTESON Geneva Tel. No. 141 L.N.	Oct. 18	Message from Secretary of State referring to No. 647 and reporting on private meeting of Council on October 17 when it was agreed to invoke Pact of Paris: President reported on his conversations with Chinese and Japanese representatives.	785

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
652	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 18	Repeats Sir M. Lampson's telegram No. 273 Tour to F.O. (No. 7 to Geneva) regarding wide extent of anti-Japanese boycott in China.	786
653	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 18	Repeats Sir M. Lampson's telegram No. 274 Tour to F.O. (No. 8 to Geneva) discussing suggestion by M. Briand for obtaining Japanese evacuation in Manchuria and transmitting five points on which Japanese Govt. would negotiate with Chinese Govt. before withdrawing in Manchuria.	786
654	MR. PATTESON Geneva Tel. No. 143 L.N.	Oct. 18	Message from Secretary of State referring to No. 651 and reporting on private meeting of Council on evening of October 17 when terms of message in No. 649 were approved.	788
655	MR. PATTESON Geneva Tel. No. 7 to Washington Tel. No. 145 L.N. to F.O.	Oct. 18	Message from Secretary of State referring to No. 643; instructions to give message to Mr. Stimson regarding U.S. co-operation with Council and invocation of Pact of Paris.	789
656	MR. PATTESON Geneva Tel. No. 144 L.N.	Oct. 19	Message from Secretary of State summarizing draft resolution regarding settlement of Sino-Japanese dispute which was submitted to private meeting of Council on October 18.	789
657	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 19	Repeats Tokyo telegram No. 9 reporting that instructions in No. 649 were carried out at interview with M.F.A. on October 19.	790
658	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 19	Repeats Tokyo telegram No. 10 referring to No. 657; substance of Nos. 644 and 646 was discussed with M.F.A.; warns of risk of public opinion in Japan forcing govt. to disregard League resolutions.	791
659	MR. PATTESON Geneva Tel. Unnumbered L.N.	Oct. 19	Repeats Tokyo telegram No. 11 referring to No. 658 and reporting discussion with M.F.A. regarding Japanese desire for guarantees in connexion with the South Manchuria railway.	792
660	MR. PATTESON Geneva Tel. No. 9 to Washington Tel. No. 147 L.N. to F.O.	Oct. 19	Message from Secretary of State recording telephone conversation with Mr. Stimson regarding the withdrawal of the U.S. representative from Council sessions.	793
661	SIR M. LAMPSON Nanking Tel. No. 280 Tour	Oct. 19	Repeats Shanghai telegram No. 149 to Peking reporting on anti-Japanese rioting in International Settlement on October 18 and on danger of Japanese marines being involved in clash.	795
662	SIR M. LAMPSON Nanking Tel. No. 15 to Geneva Tel. No. 281 Tour to F.O.	Oct. 19	Submits appreciation of present situation in Sino-Japanese dispute and tentative idea for compromise solution.	796

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
663	SIR M. LAMPSON Nanking Tel. No. 17 to Geneva Tel. No. 283 Tour to F.O.	Oct. 19	Refers to Nos. 661 and 669 and considers that formal representations to Chinese Govt. regarding Shanghai rioting would be unwise.	797
664	VISCOUNT CECIL Geneva	Oct. 19	Memorandum regarding possible means of pressure by Council on Japanese Govt. if Chinese territory outside South Manchuria railway zone is not evacuated.	797
665	SIR M. LAMPSON Nanking No. 173 Tour	Oct. 19	Transmits minute of an interview between the British, U.S. and French Ministers and President Chiang Kai-shek regarding the situation in Manchuria and determination of Chinese Govt. not to yield to Japan.	801
666	MR. PATTESON Geneva Tel. No. 151 L.N.	Oct. 20	Message from Secretary of State: in conversation on October 15 Italian M.F.A. raised question of use of article 16 of Covenant in Sino-Japanese dispute.	804
667	MR. PATTESON Geneva Tel. No. 13 to Washington Tel. No. 152 L.N. to F.O.	Oct. 20	Message from Secretary of State referring to No. 660 and discussing procedure in connexion with attendance of U.S. representative at sessions of Council.	805
668	SIR R. LINDSAY Washington Tel. No. 2 to Geneva Tel. No. 648 to F.O.	Oct. 20	Message for Secretary of State referring to No. 660: reports conversation with Mr. Stimson who explained difficulties in connexion with U.S. co-operation with Council.	805
669	SIR M. LAMPSON Nanking Tel. No. 74 to Shanghai Tel. No. 282 Tour to F.O.	Oct. 20	Refers to No. 661 and instructs Mr. Brennan to consult chairman of Shanghai Municipal Council regarding use of Japanese members of municipal police during crisis.	806
670	MR. PATTESON Geneva Tel. No. 15 to Nanking Tel. No. 153 L.N. to F.O.	Oct. 20	Instructions to repeat Nos. 661 and 669 to Tokyo so that H.M. Ambassador can approach Japanese Govt. in similar sense.	807
671	MR. STRANG Moscow No. 546	Oct. 20	Reports on conversations regarding the situation in the Far East with M. Karakhan on October 16 and with Mr. Mo Tch-hui on October 19.	807
672	MR. PATTESON Geneva Tel. No. 156 L.N.	Oct. 22	Message from Secretary of State: amended version of draft resolution in No. 656 was communicated to Japanese representative on October 21: outlines suggested procedure.	809
			<i>Note 3.</i> Extract from letter of October 21 from Lord Reading to Sir R. Vansittart emphasizing the importance of finding a solution for the Sino-Japanese dispute.	810
673	MR. PATTESON Geneva Tel. No. 159 L.N.	Oct. 22	Message from Secretary of State referring to No. 672: Japanese views on suggested resolution being unfavourable, draft resolution in No. 656 is being submitted to public meeting of Council.	810

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
674	MR. PATTESON Geneva Tel. No. 15 to Tokyo Tel. No. 162 L.N. to F.O.	Oct. 22	Instructions to Sir F. Lindley to show text of resolution submitted to Council on October 22 to M.F.A. and express hope that Japanese Govt. will accept it.	811
675	SIR M. LAMPSON Nanking Tel. No. 20 to Geneva Tel. No. 287 Tour to F.O.	Oct. 22	Reports conversation with Japanese Minister on October 20 regarding Japanese policy towards China: attitude of H.M.G. towards dispute was explained to Mr. Shigemitsu.	812
676	SIR M. LAMPSON Nanking Tel. No. 22 to Geneva Tel. No. 296 Tour to F.O.	Oct. 22	Refers to No. 661 and reports on conference held at Shanghai regarding maintenance of order in International Settlement and co-operation with Japanese forces: has warned Acting M.F.A. and Dr. Koo of risks of clash between Chinese crowds and Municipal Police.	813
677	SIR M. LAMPSON Nanking No. 177 Tour	Oct. 22	Transmits minute of an interview on October 19 between British, U.S., French and German Ministers and President Chiang Kai-shek regarding the effects of the Manchurian crisis on the international situation and the internal position in China.	814
678	CHINESE CHARGÉ D'AFFAIRES London	Oct. 22	Note to Secretary of State enclosing Chinese Govt.'s reply to message in No. 649 regarding Pact of Paris.	817
679	SIR E. DRUMMOND Geneva	Oct. 23	Letter to Mr. Cadogan enclosing record of a conversation on October 22 with Mr. Yoshizawa regarding Japanese fifth point (see No. 653) relating to railways in Manchuria.	818
680	MR. PATTESON Geneva Tel. No. 163 L.N.	Oct. 24	Message from Lord Cecil reporting that a counter draft resolution submitted by Japanese delegate on October 23 and referring to five points was discussed by Council on October 24.	820
681	MR. PATTESON Geneva Tel. No. 164 L.N.	Oct. 24	Message from Lord Cecil reporting on meeting of Council in afternoon of October 24 when Japanese draft resolution was rejected and draft resolution of October 22 was approved by all members of Council except Japanese.	821
			<i>Note 3.</i> Minutes of October 26 by Mr. MacKillop and Mr. Orde discussing British policy until reassembly of Council on November 16.	822

CHAPTER XI

Further correspondence regarding the Manchurian dispute and attempts to reach a settlement during the adjournment of the Council of the League of Nations: the Nonni bridge incident (October 26–November 16, 1931)

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
682	SIR F. LINDLEY Tokyo Tel. No. 200	Oct. 26	Refers to No. 680 and reports that Japanese press in commenting on proceedings of Council accuses British Delegates of anti-Japanese bias.	824
683	To SIR F. LINDLEY Tokyo No. 556	Oct. 26	Records conversation with Mr. Matsudaira regarding proceedings at the Council of the League of Nations.	825
684	SIR M. LAMPSON Nanking Tel. No. 304 Tour	Oct. 27	Reports conversation with President Chiang Kai-shek on October 26 regarding arrangements for transfer to Chinese administration of territory evacuated by Japanese: requests authority to nominate British observers to be attached to Chinese authorities in accordance with invitation from President.	825
685	SIR J. PRATT Foreign Office	Oct. 27	Memorandum respecting the Manchurian problem and policy to be adopted by the League of Nations.	826
686	SIR F. LINDLEY Tokyo Tel. No. 203	Oct. 28	Refers to No. 684: trusts H.M.G. will not send observers to Manchuria unless other Powers act similarly: H.M.G. already regarded as chief opponent of Japan.	830
687	SIR M. LAMPSON Peking No. 1591	Oct. 28	Reports on visit to Nanking in connexion with development of Sino-Japanese crisis, October 14–27.	830
688	To SIR M. LAMPSON Peking Tel. No. 327	Oct. 29	Refers to No. 686: British observers should be nominated but should not proceed to Manchuria until identical action by other Powers is assured.	842
689	To LORD TYRRELL Paris Tel. No. 295	Oct. 29	Instructions to discuss with M. Briand a suggestion for obtaining Sino-Japanese negotiations and Japanese evacuation in Manchuria.	842
690	SIR M. LAMPSON Peking Tel. No. 593	Oct. 30	Repeats Mr. Ingram's telegram No. 190 of October 28 transmitting personal message to Lord Reading from President Chiang thanking H.M.G. for support of China's cause.	844
691	LORD TYRRELL Paris Tel. No. 240	Oct. 30	Instructions in No. 689 have been carried out in communication to French Ministry of Foreign Affairs, with whom letter of October 29 from M. Briand to Japanese Govt. regarding satisfaction of Japanese conditions for evacuation in Manchuria was discussed.	845

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
692	MR. CADOGAN Foreign Office	Oct. 30	Memorandum respecting the proceedings of the Council of the League of Nations on the Manchurian question, September 22–October 24.	845
693	SIR F. LINDLEY Tokyo No. 512	Oct. 30	Reports on developments in Sino-Japanese dispute, October 16–30.	853
694	SIR E. DRUMMOND Geneva	Oct. 30	Letter to Mr. Cadogan transmitting information regarding the attitude of the U.S. Govt. towards the Sino-Japanese dispute.	862
695	SIR F. LINDLEY Tokyo Tel. No. 208	Oct. 31	Refers to No. 691: considers H.M.G. should not take action in support of M. Briand's letter of October 29.	864
696	TO SIR R. LINDSAY Washington Tel. No. 765	Oct. 31	Instructions to enquire informally regarding Mr. Stimson's views on Council resolution of October 24 and general situation.	864
697	SIR M. LAMPSON Peking Tel. No. 305 to Nanking Tel. No. 596 to F.O.	Oct. 31	Instructions to Mr. Ingram to inform U.S. Consul-General, French Minister, Acting M.F.A. and Dr. Soong of instructions in No. 688.	864
698	SIR F. LINDLEY Tokyo Tel. No. 210	Nov. 2	Requests authority to deny press reports that H.M.G. are seeking advantages in China as price of support against Japan.	865
699	MR. PATTESON Geneva Tel. No. 34	Nov. 2	Message from Sir E. Drummond for Mr. Cadogan transmitting information regarding correspondence with Dr. Rajchman relating to Chinese arrangements for occupation of districts to be evacuated by Japanese forces.	865
700	SIR R. LINDSAY Washington Tel. No. 676	Nov. 2	Refers to No. 696 and reports information from Under Secretary of State regarding State Dept.'s views on Manchurian dispute.	866
701	SIR V. WELLESLEY Foreign Office	Nov. 2	Record of conversation with the French Ambassador who gave information regarding possible U.S. action at Tokyo in support of Council resolution of October 24.	867
702	SIR E. DRUMMOND Geneva	Nov. 2	Letter to Mr. Cadogan enclosing and commenting on record of conversation with Mr. Gilbert regarding support by U.S. Govt. for League policy: also encloses a note of a conversation with Mr. Harada, a Japanese member of League Secretariat, regarding a possible formula for securing Sino-Japanese negotiations and Japanese evacuation.	868
703	SIR F. LINDLEY Tokyo Tel. No. 212	Nov. 3	Reports information from French Ambassador regarding Japanese reply to M. Briand's note of October 29 and discusses compromise suggested in No. 689.	872
704	SIR M. LAMPSON Peking Tel. No. 605	Nov. 3	Reports conversation on November 2 with Marshal Chang regarding Japanese policy in Manchuria and the Nonni bridge incident.	872

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
705	SIR F. LINDLEY Tokyo Tel. No. 213	Nov. 4	Reports information from Vice-M.F.A. that M. Karakhan denied that Soviet Govt. had supplied arms to China.	873
706	LORD TYRRELL Paris Tel. No. 11 Saving	Nov. 4	Refers to No. 689: M. Briand stated in conversation that he considered attitude of Chinese and Japanese govts. was more favourable towards a compromise.	874
707	TO SIR F. LINDLEY Tokyo No. 572	Nov. 4	Records conversation with Mr. Matsudaira regarding H.M.G.'s friendship for Japan and Japanese attitude towards the League.	874
708	SIR E. DRUMMOND Geneva	Nov. 4	Letter to Mr. Cadogan referring to No. 689 and M. Briand's note of October 29 and discussing further the compromise solution suggested by Mr. Sugimura.	875
709	TO SIR R. LINDSAY Washington Tel. No. 773	Nov. 5	Instructions to explain to State Dept. the present position in connexion with appointment of observers for Manchuria.	876
710	SIR F. LINDLEY Tokyo Tel. No. 214	Nov. 5	Refers to No. 705: M.F.A. has informed French Ambassador that Japanese troops would be withdrawn when Nonni bridge was repaired.	877
711	SIR M. LAMPSON Peking Tel. No. 616	Nov. 7	Acting M.F.A. has informed Mr. Ingram that Chinese Govt. had learned that elimination of Marshal Chang would ease Manchurian situation.	877
712	SIR E. DRUMMOND Geneva	Nov. 8	Letter to Mr. Cadogan enclosing a record of conversation with Mr. Gilbert regarding the Japanese note of November 7 in reply to M. Briand's note of October 29.	877
713	SIR M. LAMPSON Peking Tel. No. 624	Nov. 9	Summarizes note of November 3 to Japanese Govt. from Chinese Govt. regarding arrangements for evacuation in Manchuria and for subsequent negotiations on outstanding issues.	879
714	SIR F. LINDLEY Tokyo Tel. No. 219	Nov. 9	Refers to U.S. Ambassador's note of November 5 to Japanese Govt. and to effect on Japanese public opinion of U.S. support of League: reports alleged statement by Mr. Stimson that U.S. Govt. would not join in any act of pressure on Japan.	880
715	SIR V. WELLESLEY Foreign Office	Nov. 9	Record of conversation with French Ambassador who communicated summary of conversation between French Ambassador in Washington and Mr. Stimson regarding U.S. note of November 5 to Japanese Govt.: British proposals in No. 689 were also discussed with M. de Fleuriau.	880
716	SIR V. WELLESLEY Foreign Office	Nov. 9	Record of conversation with Japanese Ambassador who made a communication regarding the Nonni bridge incident and gave information regarding withdrawal of Japanese troops into South Manchuria Railway zone.	881

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
717	TO SIR R. LINDSAY Washington Tel. No. 781	Nov. 10	Refers to No. 714: H.M.G. have no thought of sanctions; instructions to ascertain views of U.S. Govt.	883
718	SIR R. LINDSAY Washington Tel. No. 681	Nov. 10	Refers to No. 700 and reports information from Mr. Stimson regarding presence in Paris of U.S. Ambassador to London during forthcoming session of Council.	883
719	SIR R. LINDSAY Washington Tel. No. 682	Nov. 10	Refers to No. 718 and reports on Mr. Stimson's views on present position in Sino-Japanese dispute; refers to No. 717 and transmits views on likely attitude of U.S. Govt. to use of sanctions.	884
720	SIR R. VANSITTART Foreign Office	Nov. 10	Record of conversation with German Ambassador who enquired regarding policy of H.M.G. in Sino-Japanese dispute and raised the question of sanctions.	884
721	SIR F. LINDLEY Tokyo Tel. No. 221	Nov. 11	Refers to No. 714 and reports growth of opinion favouring Japanese secession from the League: discusses formula for obtaining Japanese evacuation in Manchuria.	885
722	SIR V. WELLESLEY Foreign Office	Nov. 11	Record of conversation with French Ambassador regarding the despatch of observers to Manchuria.	886
723	TO SIR R. LINDSAY Washington No. 1566	Nov. 11	Records conversation with American Ambassador regarding the forthcoming session of the Council: General Dawes repeated information from Mr. Matsudaira relating to the Manchurian situation.	886
724	SIR F. LINDLEY Tokyo No. 533	Nov. 11	Refers to Nos. 693 and 698 and reports steps taken to ensure better relations between Japanese press and British Embassy.	888
725	SIR M. LAMPSON Nanking Tel. No. 305 Tour	Nov. 12	Reports conversation with Secretary of Japanese Legation regarding possible compromise in Sino-Japanese dispute.	891
726	SIR F. LINDLEY Tokyo Tel. No. 224	Nov. 12	Refers to Japanese reply dated November 9 to U.S. note of November 5; considers U.S. Govt. has greater influence in Tokyo than League.	891
727	SIR M. LAMPSON Nanking Tel. No. 310 Tour	Nov. 12	Reports conversation with President regarding effect of reconciliation between Canton and Nanking on Sino-Japanese relations, groups in Japan in favour of early evacuation and the situation at Tientsin.	892
728	TO SIR F. LINDLEY Tokyo No. 584	Nov. 12	Records conversation with Japanese Ambassador regarding agreement of 1905 relating to S. Manchuria Railway, withdrawals of Japanese troops from Manchuria, the anti-Japanese boycott, the situation at Tientsin; and with the Japanese and U.S. Ambassadors regarding a suggestion by Mr. Stimson concerning Sino-Japanese negotiations.	893

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
729	TO MR. CAMPBELL Paris No. 2741	Nov. 13	Records that French Ambassador stated in conversation that M. Briand had been informed of Mr. Stimson's suggestion (see No. 728).	896
730	VISCOUNT CECIL Foreign Office	Nov. 13	Letter to Secretary of State discussing the application of articles 15 and 16 of the Covenant to the Sino-Japanese dispute.	896
731	SIR F. LINDLEY Tokyo No. 537	Nov. 13	Refers to No. 693 and reports on events connected with the Manchurian dispute up to November 13.	897
732	SIR F. LINDLEY Tokyo No. 539	Nov. 13	Refers to No. 497 and records conversations of September 10 and November 10 between Mr. Snow and Mr. Tani regarding the South Manchuria Railway; discusses validity of agreement of 1905 relating to South Manchuria Railway.	901
733	SIR F. LINDLEY Tokyo Tel. No. 227	Nov. 14	Reports conversation with M.F.A. regarding future administration of Manchuria.	904
734	SIR F. LINDLEY Tokyo Tel. No. 226	Nov. 14	Reports information from M.F.A. regarding instructions to Japanese commander to reach agreement with General Ma regarding Nonni bridge incident. <i>Note 1.</i> Information regarding movements of Mr. Henry Pu Yi.	904
735	SIR F. LINDLEY Tokyo Tel. No. 228	Nov. 14	Considers settlement might be reached in Manchuria if Marshal Chang retired.	905
736	SIR F. LINDLEY Tokyo Tel. No. 229	Nov. 14	Appreciation of situation in No. 624 is still valid except that Japanese opinion has hardened against League and Marshal Chang; suggests course of action for Council.	906
737	SIR F. LINDLEY Tokyo Tel. No. 1 to Paris Tel. Unnumbered to F.O.	Nov. 16	Message for Secretary of State summarizing an article in 'Nichi Nichi' regarding an alleged agreement between British, U.S. and Japanese govts. and suggesting amendment to formula put forward in No. 721.	906

CHAPTER XII

Further negotiations to secure a settlement of the Manchurian dispute during the session of the Council of the League of Nations: the situation at Chinchow: the Council's resolution of December 10 (November 16–December 11, 1931)

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
738	MR. CAMPBELL Paris Tel. No. 165 L.N.	Nov. 16	Message from Mr. Cadogan reporting on meetings of Council in afternoon of November 16: M. Briand suggested private conversations should take place regarding Japanese fifth point.	908

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
739	VISCOUNT CECIL Paris	Nov. 16	Memorandum discussing means of ascertaining real policy of Japan in Manchuria.	909
740	UNITED KINGDOM DELEGATE Paris No. 129	Nov. 16	Transmits record by Secretary of State of a conversation with M. Briand regarding the present position of the Manchurian dispute.	910
741	SIR E. OVEY Moscow No. 601	Nov. 16	Refers to Soviet communication of November 14 to Japanese Ambassador and reports on conversation on November 14 with M. Litvinov regarding Soviet attitude to Manchurian dispute.	912
742	UNITED KINGDOM DELEGATE Paris No. 133	Nov. 17	Transmits copy of a letter of November 15 to Mr. Cadogan from Sir E. Drummond regarding possible procedure in event of Council's failing to obtain agreement in connexion with Japanese fifth point.	913
743	UNITED KINGDOM DELEGATE Paris No. 135	Nov. 17	Transmits copy of a letter of November 13 to Mr. Cadogan from Sir E. Drummond respecting the attitude of the Italian Govt. and of the Paris press towards the Sino-Japanese dispute.	916
744	UNITED KINGDOM DELEGATE Paris No. 137	Nov. 17	Transmits record of private meeting of Council on November 17 when it was decided to obtain explanations from the Japanese Govt. regarding the fifth point and the question of security.	917
745	UNITED KINGDOM DELEGATE Paris No. 138	Nov. 17	Transmits minute by Secretary of State respecting possible undertakings to be given by China to the Powers in return for which Japan would withdraw her troops.	919
746	SIR J. SIMON Paris	Nov. 17	Letter to Prime Minister expressing views on the policy of the League in the Manchurian dispute.	921
747	SIR M. LAMPSON Nanking Tel. No. 319 Tour	Nov. 18	Infers from conversations with Dr. Koo that Chinese Govt. are more ready to consider compromise solution: discusses position of Dr. Koo.	922
748	SIR R. LINDSAY Washington Tel. No. 713	Nov. 18	Refers to No. 714: Under Secretary of State denied that Mr. Stimson had made alleged statement: adheres to views expressed in No. 719 regarding U.S. attitude to sanctions.	923
749	UNITED KINGDOM DELEGATE Paris No. 141	Nov. 18	Transmits minute by Mr. Cadogan of a meeting on November 17 between Sir J. Simon, Lord Cecil, and Sir E. Drummond to discuss Mr. Matsudaira's plan for a League Commission to study Sino-Japanese relations and for Sino-Japanese negotiations on Japanese five points: also transmits minute dated November 17 by Sir E. Drummond of conversations with Mr. Sugimura on the same subject.	923
750	UNITED KINGDOM DELEGATE Paris No. 142	Nov. 18	Transmits record of private meeting of Council on November 18 at which plan referred to in No. 749 was discussed.	927

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
751	SIR F. LINDLEY Tokyo Tel. No. 12 to Paris	Nov. 19	Refers to Japanese occupation of Tsitsihar and reports that M.F.A. assured U.S. Ambassador that Japanese troops would withdraw from North Manchuria as soon as possible.	929
752	MR. CAMPBELL Paris Tel. No. 1 to Nanking Tel. No. 166 L.N. to F.O.	Nov. 19	Message from Secretary of State referring to No. 747: plan in No. 753 was discussed with Dr. Sze on November 18: discusses Japanese proposal in No. 749.	930
753	MR. CAMPBELL Paris Tel. No. 2 to Nanking Tel. No. 167 L.N. to F.O.	Nov. 19	Message from Secretary of State referring to No. 752 and setting out heads of suggested arrangement for Japanese withdrawal in Manchuria in return for certain undertakings by Chinese Govt.	931
754	UNITED KINGDOM DELEGATE Paris No. 144	Nov. 19	Transmits record of private meeting of Council on November 19 regarding the appointment of a Commission of Enquiry into Sino-Japanese relations.	931
755	SIR M. LAMPSON Nanking Tel. No. 323 Tour	Nov. 20	Reports on interview on November 19 between British, U.S., French and German Ministers and Dr. Soong who stated that General Chiang would proceed north as C.-in-C. and that reunification between Canton and Nanking had been arranged.	935
756	SIR F. LINDLEY Tokyo Tel. No. 14 to Paris	Nov. 20	Endorses compromise suggested in No. 752: comments on power of military party in Japan and on possibility of seizure of North Manchuria.	936
757	SIR F. LINDLEY Tokyo Tel. No. 15 to Paris	Nov. 20	Refers to No. 756 and suggests modification to formula in No. 753.	936
758	LORD TYRRELL Paris Tel. No. 4 to Nanking Tel. No. 169 L.N. to F.O.	Nov. 20	Message from Mr. Cadogan reporting on private meeting of Council on November 20 when M. Briand reported on interviews with Japanese and Chinese delegates: future procedure of Council was also discussed.	937
759	SIR M. LAMPSON Nanking Tel. No. 328 Tour	Nov. 21	Refers to No. 762 and reports information from Dr. Rajchman that U.S. Govt. had decided to adopt more drastic policy than Council.	938
760	SIR F. LINDLEY Tokyo Tel. No. 18 to Paris	Nov. 21	Refers to No. 761 and reports on impressions gained in interview with M.F.A.	938
761	SIR F. LINDLEY Tokyo Tel. No. 17 to Paris	Nov. 21	Refers to No. 755 and reports on interview with M.F.A. regarding Japanese Govt.'s attitude to General Chiang, the situation at Chinchow and Tientsin and the possibility of a Soviet-Japanese conflict.	939
762	SIR M. LAMPSON Nanking Tel. No. 326 Tour	Nov. 21	Reports information from Dr. Rajchman that Dr. Sze had telegraphed that U.S. Govt. would have gone further than Council.	940

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
763	SIR M. LAMPSON Nanking Tel. No. 329 Tour	Nov. 22	Repeats message from representative of British and Chinese Corporation asking for support in obtaining release of funds of Peking-Mukden railway under Japanese embargo: has authorized H.M. Consul-General at Mukden to make representations.	940
764	SIR F. LINDLEY Tokyo Tel. No. 19 to Paris	Nov. 22	Reports on departure of Military Attachés at Tokyo, including Colonel Simson, for visit to Manchuria.	941
765	SIR M. LAMPSON Nanking Tel. No. 332 Tour	Nov. 22	Reports information given to U.S. Minister by Dr. Koo regarding proposed Chinese counter proposals for settlement of Sino-Japanese dispute.	941
766	LORD TYRRELL Paris Tel. No. 2 to Washington Tel. No. 173 L.N. to F.O.	Nov. 22	Message from Secretary of State referring to reports in Nos. 759 and 762: instructions to draw Mr. Stimson's attention to danger that settlement might be prejudiced.	942
767	SIR F. LINDLEY Tokyo Tel. No. 21 to Paris	Nov. 23	Refers to No. 765: Chinese proposals will be unacceptable to Japanese Govt. which will resist any League sanctions.	943
768	TO SIR F. LINDLEY Tokyo Tel. No. 156	Nov. 23	Refers to No. 763: instructions to make representations to Japanese Govt. if action at Mukden fails.	943
769	SECRETARY OF STATE Paris	Nov. 23	Memorandum discussing British policy in relation to the Manchurian dispute.	943
770	UNITED KINGDOM DELEGATE Paris No. 146	Nov. 23	Transmits record of a private meeting of the Council on November 23 when a draft resolution (enclosure 2) was discussed.	947
771	SIR M. LAMPSON Nanking Tel. No. 334 Tour	Nov. 24	Reports that Dr. Koo has informed Mr. Johnson that proposals referred to in No. 765 have been telegraphed to Dr. Sze.	949
772	SIR M. LAMPSON Nanking Tel. No. 337 Tour	Nov. 24	Reports conversation with Dr. Koo who communicated proposals referred to in No. 771.	950
773	SIR E. DRUMMOND Paris	Nov. 24	Letter to Secretary of State regarding H.M.G.'s policy on sanctions and hopes of averting a Japanese attack on Chinchow.	951
774	LORD TYRRELL Paris Tel. No. 174 L.N.	Nov. 25	Message from Lord Cecil regarding future procedure at Council and conversations with Japanese and Chinese delegates concerning the situation at Chinchow.	951
775	TO LORD TYRRELL Paris Tel. No. 314	Nov. 25	Message for Lord Cecil from Secretary of State regarding attitude to be adopted by British delegate at public session of Council.	952
776	TO SIR F. LINDLEY Tokyo Tel. No. 158 TO SIR M. LAMPSON Nanking Tel. No. 157 Tour	Nov. 25	Refers to No. 774: instructions to urge Govt. to which accredited to refrain from any act likely to jeopardize peaceful solution of Manchurian dispute.	952

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
777	SIR M. LAMPSON Nanking Tel. No. 341 Tour	Nov. 25	Reports appointment of Dr. Koo as Acting M.F.A. and discusses Chinese internal political situation.	953
778	LORD TYRRELL Paris Tel. No. 175 L.N.	Nov. 25	Message from Lord Cecil reporting on private meeting of Council on November 25 when draft resolution in No. 770 and situation at Chinchow were discussed.	954
779	SIR M. LAMPSON Nanking Tel. No. 338 Tour	Nov. 25	Reports interview between British, French and U.S. Ministers and Dr. Koo who suggested that Chinese Govt. might propose to evacuate its troops from Chinchow to Shanhaikuan provided Japanese Govt. gave satisfactory guarantees to H.M., French and U.S. Govts.	954
780	SIR F. LINDLEY Tokyo Tel. No. 23 to Paris	Nov. 25	Refers to No. 779 and reports conversation with M.F.A. regarding situation at Chinchow.	955
781	SIR M. LAMPSON Nanking Tel. No. 9 to Mukden Tel. No. 340 Tour to F.O.	Nov. 25	Instructions to Mr. Eastes regarding representations to be made on behalf of British subjects owning goods impounded by Japanese authorities.	956
782	LORD TYRRELL Paris Tel. No. 176 L.N.	Nov. 26	Message from Lord Cecil referring to No. 775 and discussing draft of statement to be made by British representative at public session.	956
783	SIR F. LINDLEY Tokyo Tel. No. 24 to Paris	Nov. 26	Instructions in No. 776 have been anticipated (see No. 780): difficulties of govt. due to constitutional position of Army were discussed with M.F.A. on November 25.	958
784	To LORD TYRRELL Paris Tel. No. 19 Saving	Nov. 26	Message for Lord Cecil from Secretary of State approving suggestions put forward in No. 782.	958
785	SIR F. LINDLEY Tokyo Tel. No. 27 to Paris	Nov. 26	Refers to No. 783: appeal could be made by ambassadors to emperor if irresponsibility of military to govt. became intolerable.	959
786	LORD TYRRELL Paris Tel. No. 178 L.N.	Nov. 26	Message from Lord Cecil reporting on private meeting of Council on November 26 when committee to draft resolution was appointed and proposal to send observers to establish a neutral zone at Chinchow was adopted: formation of concerted organization of observers was also suggested.	959
787	LORD TYRRELL Paris Tel. No. 179 L.N.	Nov. 26	Message from Lord Cecil referring to No. 774: on November 25 Chinese delegate proposed despatch of neutral troops: assumes H.M.G. could not agree. <i>Note 2.</i> Letter of November 26 from Lord Cecil to Sir J. Simon reporting further on proceedings of the Council.	960 960

	NO. AND NAME	DATE	MAIN SUBJECT	PAGE
788	TO SIR F. LINDLEY Tokyo No. 601	Nov. 26	Records proceedings of private meeting of Council on November 18 when Japanese and Chinese delegates were questioned regarding their govts.' terms for settlement of dispute.	962
789	TO VISCOUNT CECIL Paris Unnumbered	Nov. 26	Letter from Sir J. Simon setting out Lord Grey's views on support by H.M.G. for League action to settle the Manchurian dispute.	964
790	TO SIR M. LAMPSON Nanking Tel. No. 159 Tour	Nov. 27	Instructions to intimate to M.F.A. that proposals in No. 765 would not be practicable.	964
791	SIR M. LAMPSON Nanking Tel. No. 346 Tour	Nov. 27	Refers to No. 776 and reports conversation with Dr. Koo when instructions were carried out: transmits further solution suggested by Dr. Koo: comments on growing pressure on Govt. to stand firm on question of fixed date for Japanese evacuation.	965
792	TO LORD TYRRELL Paris Tel. No. 318	Nov. 27	Refers to No. 787: message for Lord Cecil that there could be no question of despatch of British troops to Chinchow.	966
793	TO SIR M. LAMPSON Nanking Tel. No. 160 Tour	Nov. 27	Discusses proposals in No. 786 regarding despatch of observers to Chinchow: instructions for Military Attaché to act in personal capacity.	966
794	LORD TYRRELL Paris Tel. No. 181 L.N.	Nov. 27	Message from Mr. Cadogan reporting on private meeting of Council and two meetings of drafting committee on November 27 when possible formula to cover Japanese evacuation was discussed.	966
795	VISCOUNT CECIL Paris Unnumbered	Nov. 27	Letter to Sir J. Simon referring to No. 789: discusses work of Drafting Committee and encloses paper respecting American views concerning the Manchurian dispute and co-operation with the League.	967
796	SIR F. LINDLEY Tokyo Tel. No. 29 to Paris	Nov. 28	Refers to No. 798 and reports information from French Ambassador that Japanese Govt. have accepted proposal in No. 779.	969
797	SIR F. LINDLEY Tokyo Tel. No. 30 to Paris	Nov. 28	Transmits substance of telegram from Captain Walters to Dr. Rajchman giving his views on Japanese policy in Manchuria.	970
798	SIR F. LINDLEY Tokyo Tel. No. 26 to Paris	Nov. 28	Refers to No. 780 and reports that he and French Ambassador urged M.F.A. to accept Chinese proposal in No. 779.	970
799	LORD TYRRELL Paris Tel. No. 182 L.N.	Nov. 28	Message from Lord Cecil referring to No. 786 and requesting reconsideration of suggestion for formation of organization of observers.	971
800	SIR F. LINDLEY Tokyo Tel. No. 32 to Paris	Nov. 28	Message for Sir E. Drummond from Captain Walters transmitting report that Japanese withdrawal from Chinchow has begun.	971

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801	TO SIR M. LAMPSON Nanking Tel. No. 162 Tour	Nov. 28	Refers to No. 793: is willing to adopt suggestion referred to in No. 799.	971
802	SIR M. LAMPSON Nanking Tel. No. 354 Tour	Nov. 28	Reports that on November 27 U.S. Ambassador at Tokyo was instructed to give message to M.F.A. from Mr. Stimson regarding Japanese assurances that troops would not be moved towards Chinchow.	972
803	LORD TYRRELL Paris Tel. No. 184 L.N.	Nov. 28	Message from Mr. Cadogan reporting interview between Drafting Committee and Chinese Delegate regarding amendments to draft resolution.	972
804	LORD TYRRELL Paris Tel. No. 13 to Nanking Tel. No. 180 L.N. to F.O.	Nov. 28	Message from Sir E. Drummond to Dr. Rajchman discussing proposed Commission of Enquiry and proposed system of observers: instructions to urge Chinese Govt. not to insist on time limit for Japanese withdrawal.	973
805	LORD TYRRELL Paris Tel. No. 185 L.N.	Nov. 29	Message from Mr. Cadogan reporting interview between Drafting Committee and Mr. Ito on November 29 regarding Japanese amendments to draft resolution; difficulties arose on formula to cover Japanese operations against bandits: Drafting Committee reported to private meeting of Council on November 29 which also discussed proposed system of observers and Japanese rejection of proposed neutral zone at Chinchow under auspices of neutral observers.	974
806	SIR F. LINDLEY Tokyo Tel. No. 39 to Paris	Nov. 30	Refers to No. 803 and reports conversation with M.F.A. regarding proposed Chinese withdrawal from Chinchow zone and menace of bandits in Manchuria.	975
807	LORD TYRRELL Paris Tel. No. 186 L.N.	Nov. 30	Message from Mr. Cadogan reporting interviews on November 30 between Drafting Committee and Chinese and Japanese delegates regarding amendments to draft resolution: private meeting of Council was also held when formula covering measures against bandits was discussed.	975
808	SIR F. LINDLEY Tokyo Tel. No. 40 to Paris	Dec. 1	Refers to No. 806 and reports French Ambassador made unsuccessful representations to M.F.A. to help neutral observers at Chinchow.	977
809	LORD TYRRELL Paris Tel. No. 189 L.N.	Dec. 1	Message from Mr. Cadogan reporting that twelve members of Council approved draft resolution and draft declaration by President.	977
810	LORD TYRRELL Paris Tel. No. 191 L.N.	Dec. 2	Message from Mr. Carr reporting private meeting of Council on December 2 to consider views of Japanese and Chinese govts. on proposed neutral zone at Chinchow.	979

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811	LORD TYRRELL Paris Tel. No. 25 to Nanking Tel. No. 195 L.N. to F.O.	Dec. 3	Message for Dr. Rajchman from Sir E. Drummond discussing difficulties in reconciling Chinese and Japanese views concerning proposed neutral zone at Chinchow.	980
812	LORD TYRRELL Paris Tel. No. 196 L.N.	Dec. 4	Message from Mr. Cadogan reporting private meeting of Council on December 4 when it was decided to press Chinese Govt. to accept proposed neutral zone provided Japanese Govt. gave satisfactory reply regarding its limits.	981
813	SIR F. LINDLEY Tokyo Tel. No. 45 to Paris	Dec. 4	Submits that unless Sino-Japanese negotiations on neutral zone and other matters begin military party in Japan may take further action.	982
814	SIR M. LAMPSON Nanking Tel. No. 366 Tour	Dec. 4	Refers to No. 811 and discusses origins and consequences of proposal for Chinese withdrawal and neutral zone at Chinchow.	982
815	LORD TYRRELL Paris Tel. No. 23 to Tokyo Tel. No. 197 L.N. to F.O.	Dec. 4	Message for Captain Walters from Sir E. Drummond regarding difficulties in connexion with draft resolution, especially formula relating to bandits.	983
816	TO SIR R. GRAHAM Rome No. 1387	Dec. 4	Records conversation with Italian Ambassador when suggestion for an Italian member of proposed Commission of Enquiry was mentioned.	984
817	UNITED KINGDOM DELEGATE Paris No. 160	Dec. 5	Transmits record of meeting of Drafting Committee on December 5 when Japanese observations on draft resolution and proposed declaration by President were discussed.	985
818	LORD TYRRELL Paris Tel. No. 198 L.N.	Dec. 6	Message from Lord Cecil referring to No. 814 and summarizing negotiations on Dr. Koo's proposal (see No. 779) and suggesting representations should be made to Chinese Govt. to implement this and enter into discussions with Japanese.	989
819	LORD TYRRELL Paris Tel. No. 28 to Nanking Tel. No. 199 L.N. to F.O.	Dec. 6	Message for Dr. Rajchman from Sir E. Drummond discussing dangers consequent upon a Chinese withdrawal of Dr. Koo's proposal.	991
820	SIR M. LAMPSON Nanking Tel. No. 371 Tour	Dec. 7	Refers to Dr. Koo's resignation owing to criticism of his proposal and reports dangerous student agitation against Koo proposal and negotiations with Japan.	992
821	SIR F. LINDLEY Tokyo Tel. Unnumbered to Paris	Dec. 7	Message from Captain Walters to Sir E. Drummond referring to No. 815; points raised therein were discussed with Vice-M.F.A.; reports indications of imminent military action against Chinchow.	992
822	TO SIR M. LAMPSON Nanking Tel. No. 169 Tour	Dec. 7	Refers to No. 818 and endorses Lord Cecil's suggestion: instructions to act if French colleague is similarly instructed.	993

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823	SIR M. LAMPSON Nanking Tel. No. 373 Tour	Dec. 7	Refers to No. 818 and argues against Lord Cecil's suggestion.	993
824	UNITED KINGDOM DELEGATE Paris No. 162	Dec. 7	Transmits record of meeting of Drafting Committee on December 7 when draft resolution and declaration by President were discussed with Chinese delegate.	994
825	UNITED KINGDOM DELEGATE Paris No. 164	Dec. 7	Transmits record of meeting of Drafting Committee on December 7 when formulae put forward by Mr. Ito regarding work of proposed commission of enquiry and measures against bandits were discussed.	995
826	LORD TYRRELL Paris Tel. No. 200 L.N.	Dec. 8	Message from Lord Cecil referring to No. 812 and reporting private meeting of Council on December 7 when it was decided to inform Japanese Govt. that limit of neutral zone at Chinchow proposed by Japanese Govt. could not be recommended to Chinese Govt.; requests despatch of instructions to H.M. Ambassador at Tokyo to make representations against advance by Japanese forces.	996
827	LORD TYRRELL Paris Tel. Unnumbered	Dec. 8	Repeats Tokyo telegram No. 49 referring to No. 813 and reporting conversation between Sir F. Lindley and M.F.A. on December 7 regarding Dr. Koo's proposal and limits of proposed neutral zone at Chinchow.	997
828	LORD TYRRELL Paris Tel. No. 203 L.N.	Dec. 8	Message from Lord Cecil referring to No. 822 and agreeing that H.M.G. should not act alone; General Dawes is being kept informed.	998
829	LORD TYRRELL Paris Tel. No. 204 L.N.	Dec. 8	Message from Mr. Carr reporting that latest form of draft resolution and declaration by President is being communicated to Chinese and Japanese representatives.	999
830	SIR M. LAMPSON Nanking Tel. No. 374 Tour	Dec. 8	Refers to Nos. 822-3 and reports that U.S. and French Ministers agree that suggested action (see No. 818) would be unwise.	999
831	VISCOUNT CECIL Paris	Dec. 8	Letter to Sir J. Simon discussing proceedings at the Council and expressing views on the situation at Chinchow.	1000
832	SIR F. LINDLEY Tokyo Tel. No. 50 to Paris	Dec. 9	Refers to No. 826 and reports representations were made accordingly: French Ambassador took action on December 8 and U.S. Ambassador has received instructions.	1001
833	UNITED KINGDOM DELEGATE Paris No. 165	Dec. 9	Transmits record of private meeting of Council on December 9 when reply of Japanese Govt. to Council's note regarding neutral zone at Chinchow (see No. 826) was discussed.	1001
834	LORD TYRRELL Paris Tel. No. 207 L.N.	Dec. 10	Message from Mr. Carr reporting that draft resolution was adopted and Council's session ended on December 10.	1003

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835	UNITED KINGDOM DELEGATE Paris No. 166	Dec. 10	Transmits record of private meeting of Council on December 10 when proceedings at forthcoming public meeting of Council were discussed.	1003
836	SIR F. LINDLEY Tokyo No. 584	Dec. 11	Reports on events connected with Manchurian dispute, November 27-December 11.	1005

APPENDICES

- I. Despatch of July 2, 1930, from Sir M. Lampson dealing with the Sino-Russian dispute over the Chinese Eastern Railway. 1011
- II. Memorandum of October 1931 by Mr. Charles relating to Manchuria. 1029

Introduction

No. 1

Foreign Office Memorandum of January 8, 1930, on British Policy in China
[F 6720/3/10]

FOREIGN OFFICE, *January 8, 1930*

Historical Survey

It is important to bear in mind from the outset that our position in China was originally built up on force. It was maintained up to the Great War on prestige, but the Chinese have now come to realise that unless there is force behind it mere prestige is another word for bluff.

For forty years up to 1900 there was much ill-suppressed hatred and suspicion of foreigners, occasionally flaring up into outbreaks of violence. After the war of 1895, when China was decisively defeated by Japan, there was a general belief that China was about to break up, and the Powers, after the manner of those days, made ready to scramble for the pieces, and, as a preliminary step, attempted to divide up the country into spheres of influence. From 1895 to 1900 is the period of spheres of influence and the battle of the concessions, ending in the Boxer outbreak of 1900, when China made a desperate attempt to drive the hated foreigner from her shores. For this she was severely punished, but after 1900 we enter upon a new era. China accepted the foreigner as inevitable, and, instead of trying to drive him out, set herself to learn from him and discover the secret of his strength. Her immemorial system of State examinations in the Confucian classics was abolished, and a new system of State education on Western lines was instituted—a break with the past, the significance of which it is difficult to exaggerate.

The main feature of this new era was that the old blind hatred of the foreigner began to vanish completely, and gave place to a spirit of nationalism which combined great personal friendliness for the foreigner and eagerness to profit by intercourse with him, with a growing feeling of resentment (which surer knowledge only made more bitter) at the injustice of the privileges enjoyed by foreigners and of the restraints imposed on Chinese sovereignty.

If we look back into the history of China we shall find that she has passed through many political convulsions, especially when changes of dynasty have taken place, which have threatened her with disintegration. In the end, however, the centripetal forces have prevailed over those of disruption, so that she has always succeeded in reuniting herself. The revolution of 1911 is, however, a greater epoch-making event than any of its predecessors, in that it marks a far more abrupt and complete break with the traditions of the past. From being the oldest absolute monarchy in the world, China suddenly

transformed herself into a modern and up-to-date republic, at any rate in theory. This transition was far too abrupt and far too drastic for a people who, by tradition, temperament and political education are so little capable of adapting themselves readily to a new order of things. Of all Constitutions, that of a modern republic presupposes a level of political education among the masses far higher than China yet possesses.

For the first five years of the republic its destinies were bound up in the dominating personality of Yuan Shih-kai. So long as the reins of government were in the hands of this sagacious statesman the spirit of the old dispensation was maintained while adhering to the forms of the new, and it seemed as if China might weather the storm. The most significant change was that in the provinces power insensibly passed from the Civil Governors (the successors of the Viceroys of Manchu days) into the hands of military leaders known as Tuchuns. So long as Yuan Shih-kai lived, he was able to keep the Tuchuns in check; indeed, they were his personal satellites; but with his death in 1916 the keystone of the political arch disappeared, and rivalry at once broke out among them. With it began the struggle for the supreme power in the State, which has lasted ever since, and has plunged the country into a state of almost incessant civil war.

The Tuchuns maintained vast armies—it is estimated that even now there are at least 1,500,000 men under arms—the upkeep of which has tended to absorb every available item of revenue, leaving insufficient either for essential provincial services or for the maintenance of the Central Government. China was torn by internecine strife and overrun by brigands. There were said to be about 1 million brigands, and the distinction between brigand and soldier is frequently apt to disappear. Since the death of Yuan Shih-kai, Government succeeded Government at Peking, and their authority often hardly extended beyond the walls of the capital. One and all were impotent, utterly discredited and always on the verge of bankruptcy. One and all were nothing more than a faction in office, a mere shadow, quite unrepresentative of China as a whole. It is a curious fact, however, that the normal life of China should go on unperturbed in spite of all this political turmoil, which only resembles a ripple on the ocean. In many directions China has made solid and substantial progress, and the latest customs returns are a record of continual and steady increase in both revenue and trade.

The dominant factor in the present situation has been the success of the Nationalist movement. This owes its success to the new educational impetus which began after 1900, and to the influence of Chinese students educated in Europe and America. The principal leader of this movement was Dr. Sun Yat-sen, who died in 1925, and is now venerated with quasi-divine honours by the party which is in power at Nanking. That party has been known since 1911 as the Kuomintang. It formed the largest and most vociferous group in the first Chinese Parliament, which was dissolved by Yuan Shih-kai in 1914. After Yuan's death it continued the feud with the Tuchuns, who were his successors, and from the 1st January, 1918, started a Secessionist Republican Government at Canton, which, although barely in command of the city area,

claimed to be the Government of the whole of China. The period of the two Governments (Peking and Canton) lasted from 1918 to 1928. As the Diplomatic Body at Peking recognised the Northern Government only, and as the foreign Powers, notably Great Britain, intervened on several occasions to compel Canton to remit customs revenue to the Peking authorities, the Kuomintang came to regard the foreign Powers, and especially Great Britain, as its enemies, and in 1923 Dr. Sun Yat-sen, after a series of interviews at Shanghai with Dr. Joffe,¹ agreed to accept Russian advisers and assistance for the Kuomintang party and the Canton Government. This alliance further envenomed the Kuomintang against Great Britain, especially after the Shanghai and Shakee 'incidents' of 1925.² In 1926 the northern expedition of the Cantonese armies began. It was unexpectedly successful. It reached Hankow in September and Shanghai in the following March. Party dissensions (over the Russian and Communist question) then delayed immediate advance, but on the 8th June, 1928, Peking was taken—not by the original Cantonese army, but by troops of Yen Hsi-shan, Tuchun of Shansi, who had declared for the Kuomintang side. On the 3rd October the Government Organisation Law was promulgated, and on the 10th October the new National Government was formed at Nanking. By the end of the year Manchuria had declared its adherence to Nanking. China was nominally united.

Nominally—because in fact the new Government at Nanking only controls the two or three provinces around the new capital. Elsewhere, local military leaders, though they no longer call themselves Tuchuns, are, in fact, a law to themselves; and Chiang Kai-shek, the President of the National Government of the Republic of China, is himself a Tuchun, watching his brother Tuchuns with a suspicious and malevolent eye.

After a year in office the new Government has not yet found means to reduce the numbers of men under arms or to cope with the menace of brigandage. This, in turn, has made impossible any rehabilitation of the country's finances, which continue in a state of disreputable chaos. The new customs tariff has opened up fresh sources of revenue, but the only use to which these have been put is to provide security for the piling up of fresh mountains of debt. The Nationalists have raised more money by domestic loans in two years than the Peking Government did in the previous fourteen, and they display the same tendency to take care of the domestic creditor while completely ignoring foreign obligations. This, and the recent recrudescence of civil war—though so far it is a war of intrigue rather than actual fighting—are the most disquieting features of the situation. Yet it would be unfair and misleading to assert that the advent of the Nationalists has made no difference to China. It has made a very great difference. In foreign affairs it has enabled China to speak with a tone of authority and to obtain concrete results from

¹ Soviet Representative at Peking, 1922-3.

² Cf. Cmd. 2636 of 1926, *Papers respecting the First Firing in the Shameen Affair of June 23, 1925*. See also *Survey of International Affairs 1925* (Royal Institute of International Affairs, London, 1927-8), vol. ii, pp. 381 f.

powerful and reluctant countries. In internal affairs it has planted the first and microscopic seed of the science of government according to Western standards.

British Policy Compared with that of other Powers

As regards the principles of British policy in China, these can be stated in a very few words. We have no territorial or imperialistic aims. Our first concern is to maintain our position in the trade of China, which is largely bound up with the prosperity of Hong Kong and the fortunes of the Maritime Customs Administration, and to secure adequate protection for British lives, property and business enterprises. Our second concern is to maintain the principle of the 'open door' and equal opportunity for all and to see that China does not fall under the tutelage of any single Power. For these reasons we desire to see a united, well-ordered, prosperous and peaceful China, and it is our policy to endeavour to co-operate to that end with the other Great Powers concerned. These are the root principles underlying all our efforts in China.

We have made some progress away from the days of spheres of influence and the battle of the concessions which preceded the Boxer outbreak, and it is now recognised, at any rate in theory, that co-operation rather than competition should be the guiding principle of the Powers in their dealings with China. The institution of the bankers' consortium in 1913 (for the financing of China's future foreign loans) was the first step in that direction; its renewal in 1920 and the 1922 Nine-Power Pact of Washington represent further extensions of the principle of international co-operation in China.

But notwithstanding the outward show of harmony among the Powers in their relations with China, it has been impossible to ignore the underlying divergence of interests which renders co-operation in practice so difficult. The chief disturbing element in this respect is Japan. There is no gainsaying the fact that Japan, though she may not like chaos in China, does not, for very obvious reasons, want a strong and united China; while, unfortunately, Great Britain and America, though in essentials pursuing the same ends, often do not act in complete harmony owing to a fundamental difference of political outlook. France has considerably less interest in the East than any of the other Great Powers concerned. Her co-operation is unreliable, and she is prone to use her position to seek her own ends rather than pursue an enlightened policy. A striking and disastrous instance of this was her action in delaying ratification of the Washington Customs Treaty for three years in order to force a settlement of the gold franc controversy—a delay which was largely responsible for the general deterioration which occurred in the interval.

China and the Powers: The Paris Peace Conference

When China was prevailed upon to declare war against the Central Powers she was promised that the Allied Governments would do all that rested with them to ensure that China should enjoy, in international relations, the position and regard due to a great country. Her delegates at Versailles accordingly pressed upon the Peace Conference the abolition of extraterritoriality

and complete tariff autonomy. The situation in China in 1919 was held not to justify these demands, and they were accordingly rejected. This, and her treatment over the Shantung question³ served greatly to exacerbate Chinese anti-foreign feeling. The Chinese came away from Paris feeling very bitterly that they had been betrayed.

A golden opportunity was thus lost of doing with a good grace and in a serener atmosphere what has since been wrung from us by the force of circumstances, with considerable loss of prestige. From that moment onwards our policy, instead of being one of spontaneous relinquishment of our privileged position, became an enforced retreat, necessitating endless rearguard actions, and in which our main effort is directed towards preventing it from being turned into a rout. The present position of the extraterritoriality question shows this very clearly.

The Washington Conference

The Washington Conference of 1921-22 aimed at remedying many of the grievances which the Powers had by then come to recognise as just. China again pressed for the surrender of extraterritoriality and for tariff autonomy, but although these were not granted, the conference resulted in a very large measure of capitulation to Chinese aspirations. Many of the concessions were no doubt fully justified and overdue. Nevertheless, the Washington Conference taught the Chinese how easy it is to manoeuvre the Powers at an international conference into compliance with their demands. Washington produced four international instruments which definitely circumscribe and determine the policy of the Powers in the Far East generally. They are:—

1. *The Four-Power Treaty*⁴ (British Empire, United States of America, Japan and France)

By this treaty the contracting parties agreed to respect their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean. Any controversies arising out of any specific question not satisfactorily settled by diplomacy are to be submitted for consideration to a joint conference; the contracting Powers are to communicate with one another in the event of aggressive action by any other Power threatening the said rights; the treaty is to be in force for ten years, and thereafter to continue in force, subject to twelve months' notice by any contracting party; upon ratification of the treaty (i.e., the 17th August, 1923) the Anglo-Japanese Alliance Agreement⁵ had to terminate. A subsequent treaty (the 6th February, 1922)⁶ defined the term 'insular possessions and insular dominions' in its application to Japan so as *not* to include the main islands of Japan.

³ See Series I, Volume VI, No. 417, note 2, for the letter of June 28, 1919, from the Chinese delegates to the Paris Peace Conference, in which they stated that they could not sign the Treaty of Versailles owing to their objection to articles 156-8.

⁴ Printed in Cmd. 1627 of 1922, pp. 38-40.

⁵ See Series I, Volume VI, Introductory Note to Chapter II.

⁶ Printed in Cmd. 1627, pp. 41-42.

2. *The Nine-Power Treaty*⁷ (British Empire, United States of America, Japan, France, Italy, Belgium, Netherlands, Portugal and China)

The contracting Powers other than China agreed (1) to respect the sovereignty, the independence and the territorial and administrative integrity of China; (2) to provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government; (3) to use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China; (4) to refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly States and from countenancing action inimical to the security of such States.

They further agreed not to enter into any treaty or agreement contrary to these principles, and that in deference to the principle of the 'open door', or equality of opportunity in China, they would not seek nor support their nationals in seeking: (a) any arrangement which might purport to establish in favour [?] of] their interests, any general superiority of rights with respect to commercial or economic development in any designated region of China; (b) any such monopoly or preference as would deprive nationals of any other Power of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government or with any local authority in any category of public enterprise which, by reason of its scope, duration or geographical extent, is calculated to frustrate the practical application of the principle of equal opportunity.

Other articles of the treaty stipulate: (i) That there will be no attempt by the Powers concerned to create spheres of influence; (ii) that there will be no unfair discrimination on Chinese railways; (iii) that Chinese neutrality in future wars will be respected; (iv) that the Powers concerned will communicate frankly and freely between themselves in any future situation affecting the treaty; (v) that other Powers, having treaty relations with China, shall be invited to adhere to the treaty; (vi) that the treaty shall come into force on the deposit of ratifications (i.e., the 5th August, 1925). No definite date is fixed for the duration of the treaty.

3. *The China Customs Treaty*⁸ (same signatories as No. 2)

This treaty promised China an additional 2½ per cent. increase on her tariff, conditionally, and it provided that a special conference should meet to determine on what conditions the increase should be granted.

4. *A Resolution Respecting Extraterritoriality*⁹

This provided that a commission should be established to enquire into the whole question of extraterritorial jurisdiction with a view to its ultimate surrender.

⁷ Printed *ibid.*, pp. 42-47.

⁸ *Ibid.*, pp. 47-52.

⁹ *Ibid.*, pp. 53-54.

The Extraterritoriality Commission

The commission which was convened in accordance with the Washington Conference resolution, referred to above, was to have met at Peking on the 18th December, 1925, but, owing to the outbreak of civil war, the first meeting did not take place until the 12th January, 1926. Its report¹⁰ was signed on the 16th September of the same year. It made certain recommendations, and advised that when these recommendations had been reasonably complied with, the Powers would be warranted in relinquishing their extraterritorial rights, in return for freedom of residence and trade and civil rights in all parts of China. The recommendations included the following points:—

1. That the courts be protected against unwarranted interference, civil or military.
2. That judicial codes, &c., be completed and put into force.
3. That laws be enacted, &c., under a uniform system.
4. That the system of modern courts, prisons, &c., be extended.
5. That adequate financial provision be made for courts, prisons, &c.
6. That prior to compliance with the above recommendations, but after the principal items had been carried out, some progressive scheme for abolition of extraterritoriality be considered.
7. That the extraterritorial powers should make certain modifications in the existing system, e.g. by applying Chinese laws in consular courts, by permitting the trial of cases with foreign plaintiffs before the modern Chinese courts without the presence of a foreign assessor, by checking abuses in extending foreign protection to Chinese persons and companies, by arranging for judicial assistance between the Chinese authorities and the authorities of the extraterritorial Powers, and for prompt execution of judgments, summonses, &c., by insisting that their nationals should pay taxes duly levied by the competent Chinese authorities.

The Chinese Commissioner, Dr. Wang Chung-hui, signed the report, but dissociated himself from some of the statements of fact contained therein.

The Tariff Conference

The Tariff Conference met at Peking on the 26th October, 1925. Its primary object was to grant to China the promised tariff increases known as the Washington surtaxes, and, if possible, to come to some agreement as to the expenditure of this increased revenue. From the opening of the conference, however, the Chinese delegation (led by Dr. C. T. Wang, who is now Foreign Minister of the National Government at Nanking) concentrated on the question of tariff autonomy, and within three weeks obtained from the foreign delegations their assent to a resolution promising tariff autonomy for China on the 1st January, 1929. This unforeseen development was the only effective outcome of the conference, which continued to meet intermittently until July 1926. Its time was taken up by discussions among the Powers as

¹⁰ Printed as Cmd. 2774 of 1926.

to the conditions under which the Washington surtaxes might be granted—discussions which showed little insight into the realities of the situation. Meanwhile, the Peking Government was crumbling, the Nationalist movement from Canton was in full swing, and an intensive boycott was being directed by Canton against Great Britain. As our colleagues at the Peking Conference were inclined to ascribe to us the responsibility for failure, His Majesty's Government decided to clear the air by addressing a note¹¹ to the United States Government (who had pointedly enquired as to our attitude towards the conference), in which we suggested that the Washington surtaxes should be granted unconditionally, and that no attempt should be made to impose, control, or exact guarantees as regards these revenues. In short, the Tariff Conference came to its inconclusive end (1) because of the attitude of certain Powers, notably Japan and the United States, who, in their eagerness to obtain payment of their unsecured debts, were determined to perpetuate as regards the additional revenues the vicious system described at page 17¹² of this memorandum, by which the customs revenues were impounded under the control of the Inspector-General of Customs for the service of the foreign obligations; and (2) because the course of the civil war made it impossible for the Chinese to present anything like a representative delegation.

Canton Government Levy the Washington Surtaxes

On the 10th October [1926] the Nationalist Government at Canton imposed certain consumption duties on imports and exports at rates corresponding in the case of the former to those of the Washington surtaxes. His Majesty's Government joined in a *pro forma* protest with the other treaty Powers, but, in view of the fact that we were by now convinced that these surtaxes should be granted unconditionally, we took no further action, and British merchants paid the surtaxes under protest.

Being now in possession of a revenue accruing from foreign trade, the Canton Government found that their boycott of Hong Kong was doing them more harm than good. Accordingly, it was called off, and within a few months the activities of the Boycott Committee had virtually ceased. At the same time, the Nationalist armies, assisted by Russian munitions and advice, had advanced in triumph to the Yangtze, and the Nationalist Government removed its seat from Canton to Wuchang (opposite Hankow) in December 1926.

The December Memorandum

Faced by tentative proposals for a renewal of the Tariff Conference, His Majesty's Government, on the 18th December, 1926, communicated their now famous memorandum to the representatives (at Peking) of all the Washington Treaty Powers.¹¹ This memorandum renews the proposal to grant the Washington surtaxes unconditionally and to free the revenues from

¹¹ The note of May 28, 1926, to the United States Government and the memorandum of December 18, 1926, are printed in *Survey of International Affairs 1926*, pp. 488–94.

¹² See the section headed 'Maritime Customs Administration' below.

all forms of foreign control, but, in view of the success of the Nationalist cause, and also of the fact that the Extraterritoriality Commission had just reported, we went a step forward, and suggested that the commission's recommendations should be carried into effect, and that 'the Powers should make it clear that in their constructive policy they desired to go as far as possible towards meeting the legitimate aspirations of the Chinese nation'.

The Offer of January 1927

This memorandum, which is now a landmark in the history of Anglo-Chinese relations, was followed by an offer of measures for treaty modification which His Majesty's Government were prepared to take if the Chinese authorities in North or South desired them to do so. This offer was presented to Dr. Wellington Koo and Dr. Eugene Chen respectively on the 27th and 28th January;¹³ it deals with the recognition of the Chinese law courts, of a reasonable Chinese Nationality Law, of the application of Chinese law in British courts, of the payment of Chinese taxation by British subjects, consideration of the application of the revised Chinese Penal Code, modification of the municipal administration of British Concessions and the rights of British missionaries and their converts. The publication of this offer, which at the time the Chinese affected to disparage, has had an increasing influence in promoting a more friendly attitude towards Great Britain. It has taken the sting out of the attack on Great Britain as protagonist of the old treaty position; and it has placed the Chinese in a quandary, since, when they come to work out the details for modification, they find that practical difficulties are very great, and that there is more to be said in favour of the old arrangements than they could ever be brought to admit.

Russian Influence in China

The violently anti-British attitude of the revolutionary Government in Canton in its early stages was largely due to the fact that they were dependent for their success upon arms and advice supplied to them with lavish hand by Soviet Russia. The alliance between Moscow and the Canton Kuomintang dates from the conversations between M. Joffe and Dr. Sun Yat-sen in January 1923; it was confirmed by the admission of Communists into the Kuomintang at the party congress in January 1924; but the Russians did not get a chance of asserting themselves until after the Shanghai, Shakee and other incidents in the summer of 1925. The capture of Hankow by the Nationalist forces marked the zenith of the Russian influence, and this influence did its best to provoke another incident by the mob attack on the British Concession at Hankow in January 1927. This incident never took place owing to the self-control of the British authorities and armed forces on the spot. From that date onwards the rift between Chiang Kai-shek, the Nationalist military leader, and the Russians became more and more apparent, until it culminated in the outrages against foreigners at Nanking on

¹³ Ibid., pp. 494-5.

the 24th March, 1927,¹⁴ which was an attempt by the extreme party to embroil Chiang Kai-shek with the foreign Powers. From that date onwards Chiang Kai-shek took the most rigorous measures against all Communists in those parts of the country which were under his control; and eventually, after agreement between him and Feng Yu-hsiang on the subject, Borodin and the remaining Russian advisers at Hankow had to flee from the country in July 1927. Russian agents having attempted to bring about a Communist rising in Canton in December of the same year, vigorous measures of repression were taken against them; the Soviet Vice-Consul and other Russians were shot, and the Nationalist Government ejected Soviet officials throughout Central and Southern China. Since that date Russian influence in China has been practically dead. Since this spectacular intervention of Russia in Chinese affairs may be regarded on its political side as a very dangerous attack on the position of the British Empire in Asia, its signal and humiliating defeat may be considered a striking success for British diplomacy.

Shanghai Defence Force

The danger, however, was so evident and so serious that, after the events at Hankow, a British force, which at one time numbered some 20,000 officers and men, was sent to Shanghai. From the middle of the year onward, however, more peaceful conditions prevailed and the Russian influence was on the wane, so it was possible to reduce the Defence Force, and there are now only some 2,000 to 3,000 British troops in Shanghai.

The Chen-O'Malley Agreement

The strengthening of our naval and military forces in China was not the only step taken by His Majesty's Government to liquidate the very difficult situation which had arisen. Our policy was, in fact, a double one: (a) to protect British life and property; and (b) to continue our efforts to reach an understanding on the basis of the December memorandum and the January offer with any Chinese Government that was prepared to be reasonable. In order to give unmistakable proof of the sincerity of the latter part of our policy we refrained from using our military strength to restore our former position at Hankow, and we proceeded to negotiate with the Nationalist Government for a transfer of the administrative powers in the former British Concession. The agreement embodying this transfer (together with another agreement dealing with the small Kiukiang Concession) was signed by Mr. O'Malley and Dr. Eugene Chen on the 19th February, 1927.¹⁵ By this agreement the former Concession was made into a special administrative district under a Sino-British Bureau with a Chinese director. This agreement, which was very adversely criticised at the time by British residents in the Far East, has, after an unsteady beginning, worked satisfactorily during the last two years. The attitude of His Majesty's Government on the question of the

¹⁴ See Cmd. 2953 of 1927, *Papers relating to the Nanking Incident of March 24 and 25, 1927*.

¹⁵ Printed in Cmd. 2869 of 1927, *Papers respecting the Agreements relative to the British Concessions at Hankow and Kiukiang*.

Hankow Concession was a most important factor in inspiring the Chinese Nationalists with a sense of confidence in our sincerity.

Settlement of the Nanking Incident

After the final rout of Russian influence from China at the end of 1927, relations between Great Britain and the National Government now established at Nanking rapidly improved, but could not be definitely placed on a satisfactory footing until that Government had accepted responsibility for the Nanking outrages of the 24th March, 1927, and had made reparation therefor. As this step involved the 'face' of the new Government, much difficulty and delay attended this settlement, but it was at last effected by an exchange of notes, dated the 9th August, 1928. In these notes the National Government expressed their profound regret, reported punishment of guilty persons, and proposed that a Sino-British Commission be instituted to assess the damages with a view to compensation. In a note signed simultaneously the British Government explained the reasons which necessitated the measures taken by H.M.S. 'Emerald' to protect British lives on that occasion, and in a further note we stated that we would not allow the Nanking incident to alter our sympathetic attitude towards China on the subject of treaty revision.¹⁶

Tariff Autonomy

The settlement of the Nanking incident cleared the way for a settlement of the tariff autonomy question. The demand for tariff autonomy had been in the forefront of Chinese claims ever since the time of the Paris Peace Conference in 1919. It was an obviously reasonable one, the only dangers in granting this demand being the unreliability of the Chinese administration, its unsound finance and economics, and the fact that for some years there had been rival Governments in the country and therefore internal difficulties over the control of Customs revenues. The establishment of the National Government at Nanking, however, removed some of these objections, and on the 25th July, 1928, the United States Government took the lead by signing a treaty recognising complete national tariff autonomy for China to come into force on the 1st January, 1929, subject to most-favoured-nation treatment. This condition, of course, passed the responsibility for further steps to the other Powers, and by the end of the year treaties embodying similar provisions had been signed by China with Germany, Norway, Belgium, Italy, Denmark, Portugal, Netherlands, Great Britain, Sweden, France and Spain. The date of the signing of the British treaty was the 20th December, 1928.¹⁷ No such treaty was signed with Japan, but an arrangement was reached by which Japan placed no obstacle in the way of the Chinese Government, and a new and higher tariff schedule was accordingly put into force on the 1st February, 1929. The British treaty obtains most-

¹⁶ These notes are printed in Cmd. 3188 of 1928, *Papers relating to the Settlement of the Nanking Incident of March 24, 1927*.

¹⁷ This treaty is printed in *British and Foreign State Papers*, vol. 128, pp. 284-91.

favoured-nation treatment for British goods and for tonnage dues on British ships, and also national treatment as regards goods imported or exported by British subjects. With the signature of these treaties and the coming into force of the new schedule the tariff question, which played so large a part in the Washington Conference of 1921-22 and the Peking Conference of 1925-26, may be considered as liquidated. So long, however, as Japan withholds her consent, the Chinese Government cannot absolutely establish their right to tariff autonomy. This, of course, is being held up by Japan not so much as a practical measure, but as a bargaining counter in the general treaty negotiations which are now in progress.

Treaty Revision

It is now generally accepted, and it is definitely laid down in our December memorandum, that, however disorderly internal conditions in China may continue to be, the time has come to place the relations of the Powers with China upon a more modern basis than that provided by the old treaties of the period 1842-76. The question of tariff autonomy has now been settled. There remains the question of that heterogeneous collection of 'servitudes', which is loosely known as extraterritoriality; but before discussing this question in its present aspect, it may be useful to outline the progress that has been made in carrying out the British offer of January 1927, as follows:—

1. *Recognition of modern Chinese law courts as the competent courts for cases brought by British plaintiffs or complainants without attendance of a British representative.*—This is now in force.

2. *Recognition of a reasonable Chinese Nationality Law.*—A carefully studied solution for this complicated question—which vitally affects the 'Anglo-Chinese' of Hong Kong and Malaya—has now been evolved, and is the subject of negotiations with the Chinese Government; a working arrangement is actually in force in South China.

3. *Application in British courts in China of the modern Chinese civil and commercial codes, &c.*—No progress has been made, since when these codes, &c., came to be examined they were found to be incomplete and unsuitable for application in the British courts, with the single exception of the trade-mark law.

4. *Payment of regular and legal Chinese taxation by British subjects.*—As a matter of fact British firms pay most, if not all, of the various consumption taxes, stamp taxes, &c., which are now being levied in a haphazard fashion on Chinese and foreign goods alike. We have not, however, made this taxation legally enforceable in the British courts by means of King's Regulations, since these taxes are too disorderly to justify any such recognition; British firms, have, however, been advised that it is wisest to pay the taxation under protest. In the case of the ex-British concession at Kiukiang, municipal taxation has recently been made enforceable through the British court.

5. *Application in British courts of the Chinese Penal Code.*—The Provisional Criminal Code of 1912 has only recently been replaced by a new code, which

came into force on the 1st September, 1928. The application of the new code in British courts will probably be considered during the forthcoming negotiations on the general question of extraterritoriality.

6. *Modification of municipal administrations of British Concessions:—*

- (a) *Hankow*.—Restored to Chinese control under the Chen-O'Malley Agreement of 1927, which is now working satisfactorily.
- (b) *Kiukiang*.—Restored to Chinese control by the Chen-O'Malley Agreement of 1927.
- (c) *Chinkiang*.—Has been restored to Chinese control under similar arrangement as at Kiukiang. Chinese are granting perpetual leases to former tenants of His Majesty's Government.¹⁸
- (d) *Amoy*.—No change.
- (e) *Canton*, i.e., *Shameen*.—No change.
- (f) *Tientsin*.—Constitution of the British Concession has been modified so as to allow Chinese to vote on equal terms with foreigners, and to provide for increase of Chinese representation on the Municipal Council; these arrangements are working satisfactorily.

It will be remembered in this connexion that there is no British Concession at Shanghai, but that the International Settlement there is, technically at any rate, international.

7. *Special treaty privileges possessed by British missionaries*.—These have been, or are in course of being, surrendered.

The Chinese have approached the question of treaty revision in a characteristically ingenious manner. The old treaties of the 1842-76 period contained no clauses to admit of their abrogation or amendment except as regards the commercial or tariff clauses, which in some, but not in all, cases might at the end of each decennial period be revised. On the 26th November, 1926, the end of a decennial period was reached in the case of the Sino-Belgian Treaty of 1865. The Chinese Government (Peking) assumed to itself the right of denunciation, not merely of the commercial clauses but of the whole treaty. Belgium, a weak Power, first appealed to the other Powers for assistance, and then applied to the Permanent Court of International Justice at The Hague for redress, but eventually gave way, and on the 1st April, 1927, accepted Chinese regulations governing the status of Belgian nationals in China pending the conclusion of a new treaty. Similar methods were applied to Spain, and to Italy, and (on the 19th July, 1928) to Japan; more recently to Denmark, Portugal and Sweden. The National Government on the 13th July, 1928, issued provisional regulations to apply to the nationals of such countries, whose treaties had been 'terminated', dealing with them as though they had completely lost their extraterritoriality; however, the notes attached to the tariff treaties signed with Belgium, Italy, Denmark, Portugal and Spain leave it to be inferred that the nationals of those countries retain their extraterritorial rights, since their respective Governments agree to

¹⁸ For the exchange of notes of October 31, 1929, concerning the rendition of the British Concession at Chinkiang see Cmd. 3469 of 1930.

surrender such rights when the Washington Powers shall have agreed to such surrender. Japan has refused throughout to admit the Chinese contentions, and absolutely denies China's right to 'denounce' her treaty. The principal Anglo-Chinese treaty (that of 1858)¹⁹ will be due for 'denunciation' (as regards its tariff and commercial clauses) on the 30th October, 1930.

*Extraterritoriality*²⁰

The whole effort of the Chinese Government is now centred in obtaining ostensibly the abolition, though perhaps in fact the modification, of the extraterritorial system. They have already obtained from the Governments of Italy, Denmark, Portugal and Spain an assurance that extraterritoriality will be surrendered by them when all the Powers signatory to the Washington treaties have come to a similar agreement. Belgium has promised to surrender extraterritoriality as soon as the majority of the Powers now possessing such privileges have agreed to relinquish them. At the end of April 1929 the Chinese Government addressed to the Governments of Great Britain, the United States, Netherlands, France, Norway and Brazil a note expressing 'their strong desire for a removal of the limitations of Chinese jurisdictional sovereignty imposed upon her by the old treaties concluded between China and the foreign Powers'. The Powers were invited to relinquish their extraterritorial privileges. To this note His Majesty's Government replied pointing out that China cannot yet be opened up as a Western country can, and that therefore some kind of treaty port system must continue for the present, and with the treaty port system some modified degree of extraterritoriality.

The Chinese Government were invited to suggest ways and means by which that interim period could be tided over. The Chinese Government replied with another note, to which His Majesty's Government sent a further reply reiterating their willingness to enter into negotiations and again inviting the Chinese Government to make suggestions. The Chinese, however, are publicly committed to complete abolition on the 1st January, 1930, and they can hardly compromise their position by coming forward with suggestions for modification. There are many indications, however, that in fact they are prepared to compromise. In order, therefore, to forestall the dangerous situation which might arise if an edict of abolition were published in the teeth of the Powers' refusal, general instructions were telegraphed to Sir Miles Lampson on the 2nd November. He is instructed to concentrate on the method of transfer of jurisdiction in the general order: (1) civil cases, (2) criminal cases, and (3) personal status matters. We stated that it is only under heading (1) that progress is practicable in the near future and that we should firmly resist any attempt to obtain transfer of criminal jurisdiction until the experience gained of administration of civil jurisdiction by the Chinese courts demonstrates that they can be entrusted with criminal jurisdiction without excessive prejudice to the interests of British subjects. As

¹⁹ The Treaty of Tientsin of June 1858 is printed in *British and Foreign State Papers*, vol. 48, pp. 47-58.

²⁰ For the question of extraterritoriality in China in 1929 see Chapters I-III below.

regards civil jurisdiction, the Chinese codes must first be carefully examined in collaboration with Chinese delegates; and to provide safeguards it is desirable that the Chinese should employ foreign judges, one of whom would sit with the Chinese judges in the modern court when a foreigner is the defendant. Suits between British subjects are to continue to be heard in the British court, but suits between foreigners of different nationality should be heard in the Chinese court. Even as regards criminal jurisdiction a beginning might be made with minor matters, such as breaches of municipal regulations and police offences. As regards civil jurisdiction, the position of British shipping and the enforcement of Chinese taxation will require special consideration. These instructions were drafted after careful consideration of alternative proposals put forward by some of the foreign Ministers in Peking to the effect that the matter should be approached from a geographical standpoint, i.e., that extraterritoriality should first be abandoned in the interior, retaining the present system as regards the principal treaty ports. The surrender of extraterritoriality in remote places where few foreigners live would make no visible difference in the existing system and seems hardly a proposition that would appeal to the Chinese. We see considerable difficulties in allowing a distinction to be made between British subject A who lives in the interior and British subject B who lives in a treaty port, all the more as British subject A would probably have to be brought down to the treaty port in order to be tried in the nearest modern court. We also think that wholesale abandonment of extraterritorial rights in the interior would undermine our contention that the state of administration of justice in China does not permit of foreigners generally being made amenable to the jurisdiction of the Chinese courts. Our proposals have been communicated to the interested Powers and have received a considerable measure of support. There seems a fair prospect that all will pursue a common line in the forthcoming negotiations.

In short, we wish to make progress in this question which the Chinese have so much at heart, but it seems to us essential that this progress should be slow; that during the transition period there should be adequate safeguards provided for foreigners; and that we should endeavour to preserve unity with the other foreign Powers concerned.

The Chinese, on the other hand, are anxious to force the pace. It was no doubt with that object that they let it be known that they intended to abolish extraterritorial privileges on the 1st January, 1930. The Chinese Minister stated officially on the 29th November that this had been decided. At the same time, it was apparent that the Chinese contemplated negotiations on the subject, which could not in the nature of things be terminated by the end of the year. It would have been possible to treat the decision as an arbitrary and illegal act and to refuse to negotiate unless it was reconsidered. This, however, would merely have led to a deadlock and we should eventually have been forced to negotiate in humiliating circumstances. It therefore appeared to be the wisest policy to endeavour to ensure that the declaration abolishing extraterritoriality should be worded in as harmless a form as possible, i.e., more as a statement of principle than a definite announcement

of abolition. A start with negotiations would probably have had this effect, but a recrudescence of civil war in December prevented any such step. A memorandum was therefore communicated to the Chinese Government on the 20th December stating that His Majesty's Government were willing to agree that the 1st January, 1930, should be treated as the date from which the process of the gradual abolition of extraterritoriality should be regarded as having commenced in principle, and would have no objection to any declaration conformable with that attitude which the Chinese Government might think it desirable to issue. His Majesty's Government were ready to enter into detailed negotiations as soon as political conditions in China rendered it possible to do so, with a view to agreeing on a method and a programme for carrying abolition of extraterritoriality into effect by gradual and progressive stages to the mutual satisfaction of both Governments. The Chinese Government returned an appreciative answer, and on the 28th December issued a skilfully-worded mandate to the effect that, as from the 1st January, all foreign nationals in China should abide by Chinese law and that the competent authorities were to prepare, for examination and deliberation, a plan for the execution of this mandate. Since the mandate did not provide that foreigners should be brought before Chinese courts, and left the way open for negotiations, it was possible, and it was judged wisest, not to allow it to deflect us from our course, but to take the line of assuming that it was intended to be a declaration of the kind which we had indicated would be acceptable; that line was accordingly taken in a further memorandum communicated to the Chinese Minister on the 1st January, which, further, pointed out the importance of the impending negotiations not being jeopardised by untoward incidents, and stated that His Majesty's Government, therefore, fully expected that the Chinese Government would issue strict instructions to all provincial and local officials that the treaties affecting British subjects were to be regarded as continuing in full vigour and effect until modified by agreement.

Sir Miles Lampson left Peking for Nanking on the 2nd January to open negotiations on the basis of the instructions outlined above.

Our attitude on the subject of *judicial* extraterritoriality (both as regards civil and criminal matters) has been indicated above; there remains the *administrative* side of extraterritoriality, which involves the method of government of foreign Concessions, the taxation of foreign persons and companies in China and the immunity of foreign shipping. These are all questions of importance. The Concessions in which His Majesty's Government are still interested are the British Concessions at Tientsin, Amoy and Canton (Shameen), and also our preponderant share in the administration of the International Settlement at Shanghai. This last will be discussed under a separate heading. The Concessions at Amoy and Canton are of little importance; the government of the British Concession at Tientsin is at present working smoothly under a municipality in which the Chinese have a considerable share. As regards taxation, the legal position is that British subjects and companies are immune from all taxation, except such as is sanctioned in

existing treaties (i.e., the maritime customs duties). As a matter of fact, they have to pay, especially on the transport of goods, a large number of illegal taxes. It is the policy of His Majesty's Government to advise merchants in their own interest to pay these taxes under protest so long as there is no discrimination as between foreign and Chinese goods.

Foreign shipping is at present immune from any interference by the Chinese authorities, and from any taxation, except tonnage dues, as regards which we have most-favoured-nation treatment. Foreign ships have the right to visit any treaty ports on Chinese inland waterways that they are able to reach, and they practise the right (though the treaties with Italy and some other minor Powers from which the right derives are probably no longer operative) to engage in Chinese coastwise traffic between treaty ports. These are rights of the greatest importance to British shipping. It is clear that China will wish to reserve her coastwise and river trade to Chinese vessels and also to extend her authority over British vessels; but it is also clear that the Chinese mercantile marine is not yet sufficiently developed to deal with so huge a volume of trade, and that for an interim period at least the Chinese will have to come to some compromise with the foreign shipping companies (principally British and Japanese). Such compromises have been tentatively under discussion, but the question has not yet become a live issue.

Commercial Treaty

In an attempt to provide a basis for discussions with the Chinese, a draft commercial treaty, framed on the usual pattern, but avoiding any issue that might bring up the question of extraterritoriality, was submitted by Sir M. Lampson to the Chinese authorities in June 1929. The Chinese replied with a counter-draft, which raised several contentious issues, and the matter was referred to examination by experts. But no progress was made along these lines, since the Chinese clearly preferred that the extraterritorial issue should first be settled. The draft commercial treaty deals, among others, with such questions as taxation and shipping.

Shanghai

The future of Shanghai is perhaps for foreigners the most important of all Chinese questions. This great city, which already has a population of some 2 millions, is likely to expand into the most populous city area in the world. This city is at present divided into five administrative areas: (1) the International Settlement, in which nearly 1 million Chinese are resident; (2) the French Concession; and (3), (4) and (5) the areas under purely Chinese administration, known in the aggregate as Greater Shanghai. At present, attention is concentrated on the International Settlement, which is the business centre of the city. It is governed by a Municipal Council, consisting, up to 1928, of nine foreigners (five British); last year three Chinese members were added. The administration of the city is on British lines, and is largely staffed with British personnel. The Chinese naturally contend that China should have complete control of the principal city of China. The reply is (and many

Chinese realise, though they will not admit, this) that no Chinese Government is as yet fit to control the destinies of a city which, for complexity and importance, compares with London and New York. There is no practicable cut and dried solution for the problem of the future government of Shanghai. Each point in a difficult situation must be dealt with as it arises, always bearing in mind that the eventual destiny of Shanghai is to be a city under purely Chinese control. Unfortunately, the Municipal Council appear to have lost faith in themselves, and to believe that the remedy is to be found, not in their own patience and understanding of the situation, but in some Government action or other. An under-current of panic has become noticeable which may provoke the very crisis which Shanghai is most anxious to avoid.

The question of Chinese representation on the municipality having been settled, the outstanding problem is that of the Provisional Court.

This court is a Chinese court established for the purpose of administering justice to the million Chinese residents in the International Settlement. From its inception in 1864 a certain amount of foreign control has been exercised with the consent of the Chinese authorities with a view to maintaining municipal authority and ensuring that the administration of justice shall approximate to Western standards. The revolution of 1911 and the resulting chaos placed the court of necessity almost completely under foreign consular and municipal control. In January 1927 a provisional agreement was reached with the local Government restoring the court to the control of the Chinese Government, but retaining certain safeguards, such as the presence of consular deputies at the trial of certain classes of cases.²¹ This agreement has worked badly, and has caused serious friction. It is now due for revision, and the Chinese will probably wish greatly to diminish the foreign element in the court. All sides are agreed that the court as at present constituted is highly unsatisfactory. The court is no longer under the preponderating influence of the British Consulate-General and the foreign deputies, who are now, under the Rendition Agreement, drawn from many different consulates, have in practice proved a source of irritation rather than a safeguard. In the negotiations which are about to commence we hope to be able to go a long way to meet the wishes of the Chinese and thus set up a new court which will prove satisfactory to both sides. As the court derives its authority solely from the Chinese Government, and as the police which carry out its decisions derive their authority from the Municipal Council, there is an inevitable conflict between executive and judiciary which is bound to exist so long as there is a foreign Government in the International Settlement. These conflicts cannot be composed by reference to higher authority, and, therefore, harmony between the executive and judiciary—without which the government of the Settlement cannot be carried on—can only be obtained by the exercise of tact and discretion and by goodwill on both sides. Machin-

²¹ The Provisional Agreement for the rendition of the Shanghai Mixed Court signed on August 31, 1926, came into force on January 1, 1927. The agreement is printed in *Survey of International Affairs 1926*, pp. 495-9.

ery for settling conflicts is one of the matters being considered in the negotiations now in progress.

One other point must be remembered as regards Shanghai, and that is, whenever real danger threatens the city (as it did in 1927) British interests, both economic and political, are so great that British troops must be sent to protect the Settlement, just as though it were a British possession. The Defence Force has now been reduced to some 2,000 to 3,000 troops. As regards the immediate safety of foreigners in Shanghai, it seemed until quite lately that this force might be withdrawn; but the recent recrudescence of civil war which appeared at one moment to threaten the existence of the Nanking Government and to portend an enforced retreat of their forces to the coast shows that it would be risky to regard the danger to Shanghai from the civil war as over. At the present crisis of the extraterritoriality negotiations, moreover, such a withdrawal would almost inevitably be interpreted by the Chinese as a sign of weakness, and they would probably increase their demands. The troops, therefore, should remain at Shanghai for the present. As soon as our negotiations are satisfactorily concluded they should, if the situation otherwise permits, be withdrawn as a gesture in celebration of the settlement. In practice, their presence is not resented by the Chinese, and there have not been even any official protests against them since the early days of 1927.

The question of securing some contribution from the British community at Shanghai for the special military protection which has been afforded to them for nearly two years presents certain practical difficulties, and would appear to be a matter for further consideration. The Municipal Council charged no rent for their land and buildings occupied by the Shanghai Defence Force, and similar generosity has been displayed by individual residents. Any direct contribution, however, from an international body like the Municipal Council would, of course, be impossible, while suggestions for the levy of an income tax on British subjects abroad have hitherto not been pursued, in view of the difficult constitutional issues involved.

Weihaiwei and Boxer Indemnity

These two outstanding questions may be coupled together, inasmuch as they both date in their present form from 1922, both arise from a desire on the part of His Majesty's Government to be conspicuously generous to China, and in both cases we have been left in the lamentable position of running about for seven years with a gift in each hand, which we have been unable to deliver.

*(a) Weihaiwei*²²

At the Washington Conference in 1922, as a contribution to the settlement of the Shantung question, we announced that we would hand the lease of Weihaiwei back to China in return for arrangements which would permit

²² For correspondence concerning Weihaiwei in 1929 see Chapters I-III below.

His Majesty's ships to use the island and anchorage for hospital purposes and for a summer station, also in return for due consideration being given to the foreign interests which had grown up at the port.²³ As the Chinese were not really interested, considerable delay took place in the subsequent negotiations, but in the summer of 1924 a joint agreement was reached which His Majesty's Minister was instructed to sign, but at that psychological moment a revolutionary *coup d'État* took place, with the result that the recognised Chinese Government disappeared and a provisional Government was established which was not formally recognised by His Majesty's Government until more than a year later. By that date the growth of the rival Southern Government showed that China was in full disruption, and it was considered inadvisable to take any steps for the rendition of Weihaiwei to a Government in so precarious a plight as was the Northern Government at Peking. The question was resumed in 1929 with the National Government at Nanking, and it appeared at first that agreement would be reached more or less on the basis of the 1924 draft. But during the negotiations the Chinese attitude changed and a demand was put forward that, since it was desired to convert Weihaiwei into a Chinese naval base, facilities for His Majesty's ships should be discontinued after a term of three years, that the place should be closed as a commercial port and no facilities be given for foreign residents or trade. This *volte face* would have justified His Majesty's Government in withdrawing the 1922 offer and reverting to the position before it was made. But it is doubtful whether Weihaiwei is worth so extreme a step. Sir M. Lampson has been instructed that, when a suitable occasion arises, he should propose to the Chinese: (a) That they should provide the facilities conceded by the 1924 agreement at some other suitable place; (b) that the cost of providing such facilities should be borne by the Chinese Government in return for the free cession of the British naval property on the island; (c) that the British naval property on the island should be surrendered when these alternative facilities are ready; and (d) that foreign property owners should be bought out by the Chinese Government.

Here the matter rests for the present. Sir M. Lampson has not yet submitted these proposals to the Chinese. If they accept them, well and good; if they refuse, it will be for His Majesty's Government to choose between the alternative evils of further retreat or further delay.

(b) *Boxer Indemnity*²⁴

At the end of 1922 His Majesty's Government notified to China that they had decided in principle to devote the proceeds of the British share of the Boxer Indemnity to projects mutually beneficial to China and Great Britain. These payments amounted in all to some £11 million, payment being spread over the years 1922 to 1945. In order to divert these funds parliamentary

²³ For Mr. Balfour's note of February 3, 1922, see Cmd. 1627 of 1922, pp. 86–88.

²⁴ i.e. the indemnity due to the foreign Powers by China under the terms of the Final Protocol of Peking, 1901, which is printed in *British and Foreign State Papers*, vol. 94, pp. 686–715. Cf. also Cmd. 3715 of 1930, *Papers regarding the Disposal of the British Share of the China Indemnity of 1901, September 19–November 14, 1930*.

action was necessary, and this involved delay from the outset. However, the China Indemnity (Application) Act of 1925 was finally placed on the Statute Book on the 30th June, 1925, exactly one month after the Shanghai incident, and when China was ablaze from end to end with anti-British agitation. The whole circumstances of the situation in fact had changed since 1922. A delegation under the chairmanship of Lord Willingdon was sent to China to see what could be done. It submitted a report with numerous proposals which was published at the end of 1926 (Command Paper 2766: 'China' No. 2, 1926). Within a month after that publication anti-British influences had brought about the mob attack on the Hankow and Kiukiang Concessions, and His Majesty's Government had decided to send the Defence Force to Shanghai. Once again the moment was unpropitious for a gift of the character which we had intended. The question was, however, resumed with a united and friendly Chinese Government in the spring of 1929 on the basis of a proposal to hand over the administration of the funds to the control of the Chinese Government in return for an undertaking that they would carry out the general lines of the educational programme recommended in the published report, and also that a considerable portion of the funds would be used in the first instance for purchasing railway materials in Great Britain, thus providing China with goods urgently required for the rehabilitation of railways and at the same time helping to deal with the vital unemployment question in this country. An agreement on these lines was on the point of being reached when the Chinese Minister of Communications intervened with suggested modifications which would have nullified the stipulation that orders for railway material should be placed in this country, while at the same time it became known that the Chinese Government desired to use the whole or greater part of the funds for completing the Canton-Hankow Railway. This project is, however, subject to a pre-existing agreement, viz., the Hukuang Railway Loan Agreement of 1911,²⁵ and the effect of this agreement and of subsidiary agreements between the parties interested (other than China) is that orders for materials for the completion of the line if placed abroad would have to be put up to open tender. At present prices this is tantamount to saying that such orders would not go to Great Britain. A deadlock has therefore arisen, and, in order that progress may be made, the following contradictory principles have somehow to be reconciled:—

- (a) The desire of His Majesty's Government that their part in the mutual benefit shall take the form of orders for railway materials placed in this country.
- (b) The desire of the Chinese that the funds shall be devoted first and foremost to the completion of the Canton-Hankow Railway.

A possible way out of the difficulty has been evolved by the Foreign Office and concurred in by other departments concerned, by Sir Miles Lampson and by the Advisory Committee set up under the Act of 1925. Detailed instruc-

²⁵ This agreement is printed by John V. A. MacMurray, *Treaties and Agreements with and concerning China 1894-1919* (New York, 1921), vol. i, pp. 866-79.

tions for revised proposals to the Chinese Government have accordingly been drafted and sent to Sir Miles Lampson.

Maritime Customs Administration

The Maritime Customs Administration first came into existence in the year 1842 when five ports were opened to foreign trade, and it became necessary to collect import and export duties on this trade. It is a purely Chinese administration in the sense that it is based on no foreign treaty rights. The employment of foreigners in the administration dates from the year 1855. The native officials of those days experienced considerable difficulties in collecting duties from foreign merchants, and these difficulties were greatly enhanced by the Taiping rebellion then raging. Foreign 'inspectors' were first employed at Shanghai, and the system was so successful that it was quickly extended to other ports. Mr. (afterwards Sir Robert) Hart became Inspector-General in 1865, and was succeeded on his death in 1911 by Sir Francis Aglen. The administration collects the import and export duties, the coast trade duties, transit duties, tonnage dues on foreign shipping, and is also charged with the lighting and buoing of China's coast, harbours and navigable rivers. It is an international service, but about half the staff are British. It has been pre-eminently a British institution; English is the official language and the administration is moulded on British lines.

The maintenance of the Maritime Customs Administration intact has in the past been regarded as a vital British interest. The administration was built up by the genius of a great Englishman—the late Sir Robert Hart—who controlled its destinies for over forty years and saw it grow from small beginnings to a great service employing some 1,400 foreigners and over 6,000 Chinese. It has conferred immense benefits both upon China and upon the foreign merchants who trade with her, and both Chinese and foreigners of all nationalities have been unstinted in their praise and admiration. The value to our prestige of this great monument to British probity and British efficiency is an important asset to our position in China.

To the British merchant it is also vital that the Customs Administration should continue to be run on the lines which have hitherto guided it, thus ensuring him fair and impartial treatment, not merely in the levy of duties, but in the application of the complicated rules governing trade in China.

The efficient collection of her customs revenues has up to now been the mainstay of China's credit and the principal security of the foreign bondholder. The foreign loans secured upon the customs amount to £224 million. The original British share of these loans was £31 million, of which nearly £20 million is still outstanding. The first loans secured upon customs revenues were contracted between 1894 and 1898 in consequence of the Japanese war. The foreign debt was greatly increased by the Boxer Indemnity imposed upon China in 1900. Up to 1894 only four-tenths of the customs revenues had been remitted to Peking, the remaining six-tenths being retained by the provinces, but by the end of the Manchu régime in 1911 the whole customs revenues were absorbed by the service of the debt. Owing to

increase in trade, and the remission of the Boxer indemnity in 1917, considerable surpluses resulted from the introduction of the Washington surtaxes and of the new tariff schedule; but these new revenues were at once mortgaged by the National Government to the extent of some £20 million, raised by means of internal short-term loans.

The year 1911 marks a crucial epoch in the history of the Customs Administration. Up to 1911 the foreign Inspector-General of Customs merely controlled the machinery which collected the revenues, but did not actually handle any money. The duties were paid direct to the Chinese superintendent at each port, and the Chinese authorities made their own arrangements for remitting the revenues to the Central Government, for the custody of the funds, and for the service of the loans secured upon those revenues. It is worthy of note that China never defaulted on her obligations, and her credit always stood deservedly high.

When the revolution broke out in 1911 there was not unnaturally a period of considerable confusion. Some officials remained loyal to the Manchus, some turned over to the revolutionaries, and some ran away. The system of government broke down, and for the first time default actually occurred.

In order to save the customs revenues from falling into the hands of revolutionaries, and perhaps diverted from the service of the foreign debt, Sir John Jordan²⁶ effected an arrangement by which the customs duties at each port were paid to the foreign Commissioner of Customs, and by him remitted to the account of the Inspector-General in certain foreign banks in Shanghai. This arrangement was embodied in the Custodian Bank Agreement of the 30th January, 1912.²⁷

This agreement constituted the Diplomatic Body the trustees of the whole customs revenues to see that all foreign obligations secured thereon up to that time were duly met. Later, when the revenues began to show a surplus this was interpreted as covering foreign control over the surplus customs revenues, which could not be released by the Inspector-General to the Peking Government without the consent of the Diplomatic Body. The agreement further effected a fundamental change in the character of the Customs Administration, which henceforth combined the dual functions of (1) an organ of the Chinese Government, and (2) the instrument through which the Diplomatic Body executed its trust and maintained its control over the whole customs revenue.

The Customs Administration (under Sir Francis Aglen) supported by the Diplomatic Body, thus became for a time the paymaster and to some extent the master of the Chinese Government (at Peking). Being exclusively identified with the Northern Government, it became an object of attack by the Nationalist Government at Canton, who publicly proclaimed their hatred of it as an instrument of foreign oppression and their determination to abolish it altogether. During 1926-27 the position of Sir F. Aglen became more and more invidious; his administration had to serve two Governments at war with

²⁶ H.M. Minister at Peking, 1906-20.

²⁷ Printed by John V. A. MacMurray, *op. cit.*, vol. ii, pp. 946-7.

one another; and had to make arrangements for the collection of tariff duties (the Washington surtaxes) which, owing to the opposition of Japan, it was not, by treaty, permitted to collect. Finally, for refusing to collect these surtaxes and for daring to initiate personal relations with the Southern Government, Sir Francis Aglen was dismissed by the Northern Government on the 31st January, 1927. That Government thereupon appointed Mr. Edwardes to be Acting Inspector-General; the National Government at Nanking, however, relied upon Mr. Maze, Commissioner of Customs at Shanghai, as their principal adviser in customs matters. This undignified and dangerous schism continued for nearly two years, and was terminated by the voluntary resignation of Mr. Edwardes on the 1st January, 1929, and the appointment of Mr. Maze as full Inspector-General. Since the issue of the memorandum of December 1926, the aim of His Majesty's Government has been to reverse the policy of foreign control of China's customs revenues and to restore the Customs Administration to the position which it occupied before the revolution in the time of Sir Robert Hart, namely, that of a trusted and efficient servant of the Chinese Government and not their master. It was felt that this was the only means of saving the Administration from destruction. As a result of the steady pressure we have brought to bear since 1926, and also largely in consequence of the appointment of Mr. Maze, this object has now in great measure been achieved.

Mr. Maze has shown intelligence and understanding in dealing with his difficult task. He has pulled the administration together and re-established its position in the eyes of the Chinese. But already it is clear that it will become increasingly a Chinese service, and that the days of a Chinese Inspector-General are not far distant. So far as the personnel are concerned, the Customs Administration is therefore much less important a British interest than it was even as late as 1925; but as regards its functions as mediator between Chinese Government and foreign merchant, its importance is as great as ever, and every effort should be made to see that, however much the Chinese share in it may be increased, the old spirit of Sir R. Hart's creation should be, so far as possible, maintained.

Relations with Japan and other Powers

It is an axiom of British policy in China that co-operation should, so far as possible, be maintained with other foreign Powers with interests in that country. The usual medium for such co-operation is to be found in the meetings of the Diplomatic Body at Peking. There, questions of common interest are discussed and policies are formulated in joint consultation by the respective Ministers for reference to their home Governments. Before the European War the prestige and authority of the Diplomatic Body were powerful factors in dealing with Chinese evasion and obstruction. The result of the War was to shatter this prestige and to weaken the position of the Powers both jointly and separately. Close co-operation, however, was supposed to exist between Great Britain and Japan in virtue of the Alliance Agreement. This, however, had been misused by Japan to further her own interests with little or no

regard to those of her partner. The most flagrant instance is to be found in the circumstances of the presentation of the Japanese ultimatum to China in 1915, which is usually called the incident of the twenty-one demands.²⁸ This led directly to the termination of the alliance, or rather to the substitution in its place of the Washington treaties, which seemed to prepare the way for a revival of the work of the Diplomatic Body by co-operation between the eight Powers (other than China) who took part in the Conference. This new form of co-operation did not work well, as is proved by the breakdown of the Tariff Conference and by the fact that, when in 1925 Great Britain was singled out for attack by the Chinese, the other Powers, so far from assisting us, seemed to rejoice in our discomfiture. The events of 1927, however, brought them together again, and when the Japanese became seriously involved through the fighting round Tsinanfu in May 1928,²⁹ they approached His Majesty's Government with vague suggestions for some closer form of co-operation. Count Uchida, a former Minister for Foreign Affairs, was sent to England in the following September in order to explain the aims and objects of his country's policy in China and to discuss ways and means for co-operation. This tentative project did not lead to any very practical result. The Ministers of the two countries in Peking were, however, instructed to keep in particularly close touch with one another, especially in the discussion of all questions of common interest, so that the Governments concerned might either agree to differ or else concur and concert such joint measures as might be taken as and when circumstances appeared to require. Such has been the basis of British and Japanese policy in China since that date, and it has worked to the satisfaction and advantage of both parties.

As a matter of fact, Japan's interests in China are so different from those of Great Britain that her policy is bound to take a somewhat different turn from our own. For instance, Japan is not nearly so concerned as we are in the maintenance of extraterritoriality. She is prepared to utilise the surrender of extraterritoriality in reaching a bargain with the Chinese for the protection of her special interests, especially in Manchuria. It is on these lines that the Japanese Minister is preparing to negotiate with China for a general settlement of treaty questions. In these circumstances we can never count upon the support of Japan, though it may sometimes suit her convenience to work with us.

Consortium

Besides the political basis of co-operation between the various foreign Powers, a financial and economic basis exists in the form of the Consortium Agreement of 1920.³⁰ This agreement has its roots in the history of the

²⁸ See *The Sino-Japanese Negotiations of 1915* (Carnegie Endowment, Washington, 1921).

²⁹ For Japanese landings at Tsinanfu in 1927 and 1928, and for the subsequent settlement of this affair see *Survey of International Affairs 1928*, pp. 403-13, and 1929, p. 314. See also *Treaties and Agreements with and concerning China 1919-1929* (Carnegie Endowment, Washington, 1929), pp. 274-5.

³⁰ Printed in Cmd. 1214 of 1921, *Correspondence respecting the new Financial Consortium in China*, pp. 53-55. See also Series I, Volume VI, Chapter II *passim*.

scramble for concessions in China which followed the Sino-Japanese war in 1895. Both the Governments and the business interests concerned had come to realise that co-operation was more satisfactory than unbridled competition. In post-war conditions this led to the formation of the present Four-Power Consortium, a project originally sponsored by the United States Government and warmly supported by His Majesty's Government. The Consortium Agreement provided for equal participation on an absolutely equal basis between powerful and representative financial groups in Great Britain, the United States of America, Japan and France in all future public loans to the Chinese Government or Chinese Government Departments or to provinces of China, and it covers both loans for administrative purposes and loans for industrial undertakings (e.g., railways). This agreement was supported by the Governments concerned, each Government undertaking to give its complete support to its respective national group members of the Consortium. The effect of the Consortium since its establishment has been purely negative. It claims to have prevented loans being contracted by irresponsible and self-seeking politicians on improvident terms. As a matter of fact, during the last nine years the credit of China has been at so low an ebb that it is doubtful whether the inability to raise loans in foreign markets is to be ascribed to the Consortium so much as to the actual circumstances of the case. In any case the whole idea of the Consortium has been anathema to the Chinese, who regard it as an attempt by the Powers to get a financial stranglehold over their country. As their credit improves (and in present circumstances it ought to do so) they will certainly apply to extra-Consortium bankers and to non-Consortium countries for financial help rather than to the Consortium itself. It is doubtful, therefore, whether the continuance of the Consortium will be beneficial either to China or to the Powers concerned. Especially is this the case with regard to industrial loans, for if, for instance, the Chinese could put up a reasonable proposition for constructing a railway, no British firm within the scope of the Consortium could touch it without bringing in its Consortium partners; this would exasperate the Chinese and the proposition would be submitted elsewhere. On the other hand, His Majesty's Government could give no assistance to any extra-Consortium British firm which might tender for the business. In dealing with our Boxer indemnity policy with reference to the construction of the Canton-Hankow Railway, we are beginning to feel in a very forcible manner how obstructive the obligations of the Consortium can be when a practical proposition is involved. These difficulties have now been submitted to Sir M. Lampson for his observations, which we are at present awaiting. It has been suggested to him that as regards the normal progress of economic development of China (i.e., railway and other industrial loans) it seems probable that no machinery of international co-operation could be devised which would in fact prevent competition. The existence of any such machinery would probably tie the hands of British industrialists, but not those of their international competitors. It would therefore be better to revert to a régime of free and open competition.

CHAPTER I

Chinese note of April 27, 1929, with regard to the abolition of extraterritorial rights: negotiations with the Chinese Government on the rendition of Weihaiwei (April 27–June 28, 1929)

No. 2

Sir M. Lampson (Peking) to Sir A. Chamberlain (Received April 29, 9.0 a.m.)
No. 371 Telegraphic [F 2110/64/10]

PEKING, April 29, 1929, 1.45 p.m.

Following received from Mr. Newton,¹ No. 83, April 27.

Begins:—

‘Note dated April 27 asking in moderate language for relinquishment of extraterritorial rights at the earliest possible date has been handed to me this evening for communication to you and His Majesty’s Government’. Document will be sent by train April 29.

Ends.

¹ H.M. Legation had not been transferred from Peking to Nanking, owing to difficulties of securing accommodation in Nanking, and also because it was not yet clear whether Nanking would remain the capital of the Chinese Republic or even whether the National Government would remain in power. H.M. Minister had instructions to visit Nanking frequently. Mr. Newton, Counsellor to H.M. Legation, was acting as the Minister’s personal representative with the National Government. Mr. Newton had his base at Shanghai, where members of the National Government spent a good deal of time.

No. 3

Note from the Chinese Chargé d’Affaires to Sir A. Chamberlain
[F 2192/64/10]

CHINESE LEGATION, LONDON, May 2, 1929

Your Excellency:

I have the honour to inform Your Excellency that I have received a telegram from the Wai-Chiao Pu,¹ Nanking, which I am instructed to transmit to His Britannic Majesty’s Government. The text of the telegram is as follows:—

‘It may be recalled that the Chinese Government, through its representatives, had had occasions to express at the Paris Peace Conference,

¹ Chinese Ministry of Foreign Affairs.

its strong desire for the removal of limitations on China's jurisdictional Sovereignty imposed upon her by the old Treaties concluded between China and the foreign Powers and that the Chinese Delegation emphatically reiterated the same desire at the Washington Conference which placed itself² on record its sympathetic disposition towards furthering the aspirations of China for the removal of restrictions on her political, jurisdictional and administrative freedom of action.

With the unification of China and the establishment upon a firm foundation of the National Government, a new era has been happily inaugurated in the relations between our two countries through the conclusion of the recent Tariff Treaty; and it is to be confidently hoped that the material wellbeing of our two countries will henceforth be greatly enhanced. But it is the belief and the conviction of the Chinese Government that the promotion of such material wellbeing will be accelerated by a readjustment of the relations between our two countries on a basis of friendly equality in matters of jurisdiction, and if His Britannic Majesty's Government could see their way to meet the wishes of the Chinese Government and people in this regard, it is certain that another obstacle to the full and frank co-operation, in trade or otherwise, between the Chinese people and foreign nationals in this country, would be happily removed, and that the desire of the Chinese Government for promoting to the fullest extent the material interest of all who choose to associate themselves with our own people would find its early realization.

It goes without saying the extraterritoriality in China is a legacy of the old regime, which has not only ceased to be adaptable to the present day conditions, but has become so detrimental to the smooth working of the judicial and administrative machinery of China that her progress as a member of the family of Nations has been unnecessarily retarded. The inherent defects and inconveniences of the system of Consular Jurisdiction have been most clearly pointed out by the Chinese Government on various occasions and also by the jurists and publicists of other countries in their official utterances as well as in their academic discussions. It is a matter of sincere regret that while many Governments which are playing an important role in international affairs are eager and persistent in their endeavour to promote genuine friendship and harmony among nations, such anachronistic practice[? s] as only tend to mar the friendly relations between the Chinese people and foreign nationals should be allowed to exist at a time when justice and equity are supposed to govern the relations of nations.

With the close contact between China and foreign Powers, the assimilation of western legal conceptions by Chinese jurists and the incorporation of western legal principles in Chinese jurisprudence have proceeded very rapidly. In addition to the numerous codes and laws now in force, the Civil code and Commercial code have reached the final stage of preparation and will be ready for promulgation before January 1st, 1930. Courts

² This word was included in the text in error.

and prisons, along modern lines, have been established, and are being established throughout the whole country.

Inasmuch as doubt has been entertained with regard to the advisability of relinquishing extraterritorial privileges at this juncture by the interested powers, it may be pointed out that certain countries having ceased enjoying extraterritorial privileges in China, have found satisfaction in the protection given to their nationals by Chinese law and have had no cause of complaint that their interests have been in any way prejudiced. His Britannic Majesty's Government may, therefore, rest assured that the legitimate rights and interests of British subjects in China will not be unfavorably affected in the least by the relinquishment of the exceptional privileges which they now possess.

As His Britannic Majesty's Government have always maintained a friendly attitude towards China and have always shown their readiness in the adoption of measures for the removal of limitations on China's Sovereignty, the Chinese Government is happy to express to His Britannic Majesty's Government the desire of China to have the restrictions on her jurisdictional sovereignty removed at the earliest possible date and confidently hope that His Britannic Majesty's Government will take this desire of China into immediate and sympathetic consideration and favor it with an early reply so that steps may be taken to enable China, now unified and with a strong central Government, rightfully to assume jurisdiction over all nationals within her domain.'

I have, &c.,

W. C. CHEN

No. 4

Sir M. Lampson (Peking) to Sir A. Chamberlain (Received May 8, 1.0 p.m.)

No. 416 Telegraphic [F 2305/64/10]

PEKING, May 8, 1929, 4.20 p.m.

Mr. Newton's telegram No. 83.¹

Note now received and copy sent via Siberia May 6. I am returning a purely formal acknowledgment as in the case of tariff (see your telegram No. 204 of 1927).²

It has been addressed to America, Netherlands, France, Norway, Brazil and ourselves.

United States Minister stated that copy of note never had been handed to State Department by Chinese Legation. If this has not been done in London, shall I telegraph substance?³

French, American and Netherlands Ministers and I discussed note this morning⁴ and there was a consensus of view that it would be highly desirable

¹ See No. 2.

² This reference is incorrect.

³ Sir M. Lampson was informed in Foreign Office telegram No. 196 of May 10 to Peking that a copy of the Chinese note had been received in the Foreign Office.

⁴ i.e. May 7: see No. 10.

that substance of replies should if possible be the same even if the language was not identic. No doubt each Government would wish to work in a different allusion to its prior action and commitments whether treaty or otherwise (compare our December declaration and January offer of 1927).

United States Minister disclosed that his Government were already elaborating their reply in [*sic* ? on] which they had called for his comments which he was now preparing. He would be glad to co-operate in this. We agreed that if he could let us see draft of proposed American reply it would be a useful basis on which we might all work in the hope of identic recommendations to our Governments. His draft will be discussed on May 9.

Netherlands Minister produced rough scheme⁵ for gradual (? abolition)⁶ which we have agreed to study very seriously, our hope being that from this starting point some agreed programme of ultimate action may be evolved.

Idea thus is subject to the concurrence of our Governments (*a*) a more or less identic reply to Chinese of a polite shelving kind; (*b*) to clear our own minds in advance as to what common practical steps may be possible to meet Chinese desires. Japan not having received the note was not represented at the meeting. There is a general feeling that Japan may be ready to proceed more rapidly than other Powers but when our ideas crystallize it will no doubt be desirable to bring Japan in.

⁵ For M. Oudendijk's scheme see No. 10, enclosure 3.

⁶ The text is here uncertain.

No. 5

Sir A. Chamberlain to Sir M. Lampson (Peking)

No. 187 Telegraphic [F 2303/24/10]

FOREIGN OFFICE, May 8, 1929, 4.30 p.m.

Your telegrams Nos. 184¹ and 372² and Mr. Newton's telegram No. 28.³ An early announcement of our readiness to negotiate might be construed

¹ Not printed. See note 3 below.

² Not printed. In this telegram Sir M. Lampson requested that instructions regarding negotiations for the rendition of Weihaiwei might be sent in time for his forthcoming visit to Nanking.

³ The reference should evidently be to Mr. Newton's telegram No. 23 of March 1 (not printed), in which he reported a conversation with Dr. C. T. Wang, Chinese Minister for Foreign Affairs. Dr. Wang had said that he wished to address a note to Sir M. Lampson proposing the reopening of negotiations for the rendition of Weihaiwei, but that he could not commit himself to signing the 1924 draft agreement, because the Chinese were not satisfied owing to:

- (1) the reservation of anchorage rights for British ships and
- (2) the excessive number of buildings reserved for British use. Dr. Wang appreciated Mr. Newton's point that rendition would not be possible while conditions in Shantung remained unstable. Mr. Newton thought that Dr. Wang's object was to obtain an announcement of His Majesty's Government's readiness to negotiate in order to strengthen the position of the National Government at the Party Congress. He suggested that an early announcement should be agreed to, but that mention of the 1924 draft agreement should be avoided,

as an admission that we had abandoned the 1924 Agreement. It might also prove embarrassing if conditions in Shantung continue such as to render early rendition impracticable.

I should wish therefore to leave the initiative to Dr. Wang and when he raises the question again inform him that His Majesty's Government naturally feel a certain responsibility in regard to the safety of the inhabitants of Weihaiwei, and that, therefore, as soon as the National Government are in effective control of Shantung and thus show they are in a position to take over Weihaiwei, His Majesty's Government are ready to implement the 1924 Agreement in any way that may be most agreeable. We might for example agree to go through the form of negotiating the 1924 Agreement over again. We must however proceed on the assumption that we stand by the 1924 Agreement and if the Chinese wish to make alterations of substance we must wait for them to put forward concrete proposals. That would appear to be the moment to suggest the appointment of experts to examine these proposals with a view to making recommendations to their respective Governments.

The negotiations should take into consideration the military administrative arrangements which have been made in the territory with the object of ensuring that the actual date of rendition shall, so far as possible, be settled with due regard to imposing the minimum amount of hardship on the British troops who may have been sent there to recuperate from illnesses contracted during the coming summer in Shanghai.

Repeat to Weihaiwei.

because the Chinese wished to change it and because it had been negotiated by the Northern Government.

Sir M. Lampson commented on this telegram in Peking telegram No. 184. He expressed the view that: 'On general principles I am all in favour of going ahead and as Minister for Foreign Affairs is in search of kudos he may prove amenable to reason'. It would be best to proceed by preliminary discussions between experts before he himself began negotiations with Dr. Wang. By going through the form of negotiating the 1924 draft agreement again, it should be possible to secure acceptance of all essential particulars. Sir M. Lampson was, however, uneasy about the Shantung situation, and suggested that he should be authorized to inform Dr. Wang privately that though the British Government was anxious for rendition, it could hand over Weihaiwei only if the Chinese Government were in effective control of its neighbourhood.

No. 6

Sir M. Lampson (Peking) to Sir A. Chamberlain (Received May 9, 4.0 p.m.)

No. 423 Telegraphic [F 2314/64/10]

PEKING, May 9, 1929, 7.50 p.m.

My telegram No. 416.¹

Meeting of same Ministers today decided to recommend United States Minister's draft (see my telegram No. 424)² to respective Governments.

¹ No. 4.

² Not printed. This telegram transmitted the text of Mr. MacMurray's draft reply, which is printed in *Foreign Relations of the United States 1929*, vol. ii, pp. 563-4.

United States Minister made it clear (which was not the case before) that this draft was his own and that he did not know terms of any reply State Department might be preparing. In sending his draft to them he was suggesting that if they approved collaboration with other Legations but preferred their own draft he might discuss that with us.

I await your instructions.

No. 7

Sir A. Chamberlain to Sir M. Lampson (Peking)

No. 200 Telegraphic [F 2244/77/10]

FOREIGN OFFICE, *May 13, 1929, 5.50 p.m.*

Nanking telegram to you No. 111¹ and your telegram No. 408.¹

The Chinese evidently attach great importance to the appointment of Ambassadors as an advertisement for their new Government, and they apparently represent to America, Japan and ourselves in turn that one of these countries is about to make the change and so steal a march on the other two. Before replying to Dr. Wang it is desirable therefore that we should consult frankly with America and Japan with a view to harmonising our action in this matter if possible. See in this connexion Washington telegram No. 307 repeated to you in my telegram No. 301 of October 27.² We are also bound by agreements made in 1919 not to create new Embassies without previous agreement with France and Italy.

I am still of opinion that political conditions in China, which have deteriorated during the last two months, hardly warrant the raising of our Legation to the status of an Embassy, in the immediate future. Possibly the best way of persuading Dr. Wang of the expediency of postponing consideration of this question would be to explain that such a step appears to us to be premature at a time when the future of China is still so uncertain that it is not possible for our Representative to reside in the place where the Government to which he is accredited is established. This condition cannot be fulfilled so long as the question of the future capital of the Republic of China remains undecided. If the decision is definitely taken in favour of Nanking then the time for considering the question of accrediting an Ambassador to the National Government would appear to be when conditions are sufficiently stabilised to permit of an Embassy being established and adequately housed in Nanking.

If you concur in these views and in the line of argument suggested, we would then consult America and Japan, inform them of the tenor of our pro-

¹ Not printed. Nanking telegram No. 111 of May 1 reported that Dr. Wang had asked that a special message be sent to Sir M. Lampson referring to the Chinese Government's request 'regarding raising Legation to an Embassy', and added that Dr. Wang 'was most anxious to see us form a quick decision on the point and would be grateful if you could let him know what His Majesty's Government thinks on the subject'. Peking telegram No. 408 of May 6 enquired: 'what answer would you wish returned?'

² Not printed.

posed reply to Dr. Wang and suggest that they should use similar language should they be approached again on the subject.

Please telegraph your observations.³

Repeated to Washington No. 240.

Repeat to Tokyo No. 84 with Nanking telegram No. 111.

³ Sir M. Lampson replied in his telegram No. 1 of May 17 from Shanghai, in which he stated: 'I most gravely doubt the wisdom of reply to Minister for Foreign Affairs you propose. His riposte would be quick and telling: that whilst that might be our view of suitability of Nanking, it was not his nor that of his Government: that every facility would be given us for acquisition of a good site to build and that if that was our only obstacle no one would be better pleased than the National Government that Great Britain should (possibly as the first great Power) move their Legation to Nanking forthwith. . . . I suggest it would be wiser that I should limit reply to Minister for Foreign Affairs to statement that His Majesty's Government are consulting other interested Governments and that a step of such importance cannot lightly be taken or without fullest consideration of all attendant circumstances.' This suggestion was approved by Sir A. Chamberlain and Sir M. Lampson reported that in his telegram No. 55 from Nanking that 'at interview June 2, I replied to Dr. Wang in the sense of last paragraph of my telegram No. 1 as authorized'. At the same time in his telegram No. 95 to Tokyo Sir A. Chamberlain referred to reports that the 'Japanese Cabinet have definitely approved the change' and requested Sir J. Tilley to 'inform the Japanese Government that I am somewhat surprised to learn that they have apparently decided on this step without consulting us' and to 'urge upon the Japanese Government that they should not act independently in this Embassy question'. Sir J. Tilley replied in his telegram No. 122 of June 4 that he had seen the Vice-Minister for Foreign Affairs and that 'statement that Japan has agreed to Chinese request is definitely untrue'. The question was then allowed to lapse.

No. 8

Sir A. Chamberlain to Sir M. Lampson (Peking)

No. 202 Telegraphic [F 2314/64/10]

FOREIGN OFFICE, *May 14, 1929, 10.0 p.m.*

Your telegrams Nos. 416,¹ 423² and 424.³

I agree that it is desirable that the replies of the various Governments should if possible be the same in substance though not in identic language. I doubt however whether United States Minister's draft is adequate even if it prove acceptable to his Government. The Chinese note appears to call for a reasoned exposition of the historical justification of extraterritoriality showing that so long as the conditions which rendered necessary such a system of regulating the intercourse between China and the West have not completely passed away any sudden or complete abolition might be as dangerous to China as it would be injurious to us. British merchants cannot yet, for example, freely reside, trade and own property in the interior of China, as Chinese do in Great Britain, nor would it yet be safe, both for political and economic reasons, for China to make so great a change except by gradual stages. Some system of extraterritoriality with modifications to

¹ No. 4.

² No. 6.

³ Not printed. See No. 6, note 2.

bring it into harmony with modern conditions would, however, appear to be the natural corollary of the maintenance of the treaty port system, and we are therefore prepared to seek in consultation with the Chinese Government some gradual and progressive solution of the problem.

If you concur these ideas might possibly be incorporated in draft on which you and your colleagues are working. We are preparing draft on these lines but final terms will, of course, be settled only after further consultation with you.

No. 9

Sir A. Chamberlain to Sir J. Tilley (Tokyo)

No. 221 [F 2448/64/10]

FOREIGN OFFICE, May 15, 1929

Sir,

In the course of our conversation this afternoon Mr. Matsudaira¹ enquired what our attitude was towards the Chinese request to enter on negotiations for the abolition of extraterritoriality. I told his Excellency that I hoped that the Ministers of the interested Powers in Peking would discuss the line to be taken in reply. I did not think it would be wise to present identic notes to the Chinese Government, but I hoped that we should reach substantial agreement upon the policy to be adopted, which each of us could express in language suited to his own conditions. For my part I thought it would be necessary to recall to the Chinese Government the circumstances which had given rise to the system of extraterritoriality as well as to the creation of the international settlements, since those circumstances still very largely prevailed and made the demand for the surrender of extraterritoriality, in my opinion, premature. I should be inclined myself to send a sympathetic and reasoned reply pointing out how much remained for the Chinese themselves to do before these extraterritorial rights could be abandoned.

I added that the Chinese had unofficially sounded us, and apparently other Powers as well, in regard to another point, namely, the establishment of Embassies in and from China. Mr. Matsudaira interrupted me to say that he had a note to question me on this subject also. I told His Excellency that I did not at all exclude the eventual possibility of the establishment of an Embassy in China, but we had only just recognised the National Government²—its authority was even now threatened both in the north and in the south—and it seemed to me that that authority should be established beyond question before any change was made in the status of our representation. Further, Nanking had been proclaimed the capital of the new China; it remained to be seen whether that decision was final and, in any case, before we removed our missions from Peking and established Embassies at Nanking

¹ Japanese Ambassador in London.

² Sir M. Lampson had presented his credentials to General Chiang Kai-shek on December 20, 1928.

it was necessary that the conditions of life in the latter city should be such as made it possible for our representatives to reside there, and that the feeling of the population should be of such a kind as to remove any danger of their being subject to insult or worse. I, therefore, thought it premature to raise this question also, and His Majesty's Government certainly had no intention of attempting to forestall other nations by the early establishment of an Embassy.

The Ambassador thanked me for the information I had given him, which, he said, he would report to his Government. He added that as regards an Embassy their position was slightly different, in that a budgetary provision for the creation of an Embassy in Peking had been made three or four years ago and, he believed, continued since, though circumstances had intervened which had prevented them from carrying out their intention. He had, however, no information as to the present views of his Government on either subject.

I said that I had disclosed my mind to him very freely, and when he reported to his Government I hoped he would say that I should be glad to receive an equally frank disclosure of their views from them.¹

I am, &c.,

AUSTIN CHAMBERLAIN

¹ The substance of paragraphs 2-4 of this despatch was telegraphed to Peking in Foreign Office telegram No. 109 of May 17.

No. 10

Sir M. Lampson (on tour)¹ to Sir A. Chamberlain (Received June 11)

No. 1 Tour [F 2924/64/10]

STEAMSHIP 'KAIPING', May 15, 1929

Sir,

Before leaving Peking I had the honour to forward by Siberian post a copy in translation of the note, dated the 27th April last, expressing the desire of the Chinese Government to secure at the earliest possible date the abolition of foreign extraterritorial rights in China, and I take this opportunity of my passage to Shanghai to submit the following comments on, and review of, the discussions which have taken place since with my colleagues concerned on the subject.

2. It will be recalled that the Chinese note was addressed to the British, French, American, Dutch, Norwegian and Brazilian representatives. As regards the other Powers, apart from those such as Russia, Germany and Austria, whose rights had already been definitely abandoned, the Belgian, Italian, Portuguese, Spanish and Danish Governments have conditionally surrendered their extraterritorial privileges in their recent agreements; the Swedish Treaty is shortly due for denunciation, and the Chinese propose, I understand, to deal with them separately, a point on which my Swedish

¹ Sir M. Lampson left Peking on May 14 and arrived at Shanghai on May 17.

colleague has expressed to me strong dissatisfaction; while as regards Japan, the Chinese claim that Japanese extraterritorial rights are to be dealt with in the forthcoming negotiations between the Chinese and Japanese Governments.

3. On the 7th May, on the suggestion of the French Minister, I met my Netherlands, French and American colleagues for a preliminary discussion of the Chinese note. The Norwegian Legation is at present in charge of a junior secretary, while it was not considered necessary to take the Brazilian representative into account, the important thing being that the representatives of the principal Powers concerned should agree as to the procedure which the other two would presumably, as is their wont, follow. In the course of this discussion the following points emerged:—

- (1) That we were all expressing merely our personal views and not acting in any sense whatever on the instructions of our Governments;
- (2) That we were all agreed that none of us were prepared to recommend the complete abolition of extraterritoriality at the present time, and that none of us felt any doubt but that our respective Governments would take the same line;
- (3) That we should endeavour to collaborate with a view to replying on identic or similar lines to the Chinese note; and
- (4) That, as it were as a parallel but entirely separate issue, we should try and clear our minds as to the fundamentals of the position with a view to evolving, if possible, a joint and practical programme covering more or less our first, second and third line of trenches, with which to meet such eventual concrete proposals as the Chinese might make.

4. With regard to a joint reply, the American Minister, who explained that in the conversations which had taken place on the subject between the State Department and the Chinese Minister, the former had adopted generally a defensive attitude based on the premise that it was for the Chinese Government to formulate their own proposals first, expressed, at the request of the Netherlands Minister, supported by the French Minister and myself, his readiness to prepare a draft reply on lines which he thought might conceivably be acceptable to the American Government.

5. With regard to the elaboration of a joint programme, the Netherlands Minister said that, as a result of prolonged study, he had worked out a rough plan embodying a sort of programme which he thought might possibly be suitable for meeting the Chinese. Of this plan he gave us each a copy at our request.

6. A minute of the proceedings at this meeting is attached (Enclosure 1).² Two days later we met again to discuss the draft which Mr. MacMurray had in the meantime prepared, as well as M. Oudendijk's scheme. The former was accepted for recommendation to our respective Governments (see my telegrams Nos. 423³ and 424⁴ of the 9th May) on the understanding that, while each Government might wish to work in different allusions to its prior

² Not printed.

³ No. 6.

⁴ Not printed. See No. 6, note 2.

actions and commitments, the substance of the reply should be, as far as possible, the same, even if the language were not identic. The basis of this American draft (see Enclosure 2)⁵ is the reference to the recommendations of the Extraterritoriality Commission of 1926, which, it is pointed out, the Chinese Government should now carry out before extraterritorial rights can be relinquished. We also had some preliminary discussion of M. Oudendijk's scheme (see Enclosure 3). It will be noted that this plan, which is admittedly a mere sketch of a possible scheme, follows the line of abandoning our extraterritorial rights in the interior while retaining them at the treaty ports, and comprises five points:—

- (1) The submission of all foreign civil and criminal cases to Chinese jurisdiction in the interior.
- (2) The retention of consular jurisdiction at the treaty ports for purely foreign cases of one nationality.
- (3) The submission of all mixed cases at the treaty ports to the jurisdiction of special Chinese courts with foreign co-judges.
- (4) The establishment of such courts at Harbin, Tientsin, Shanghai, Hankow and Canton.
- (5) The application of Chinese laws and regulations to foreign nationals throughout China (whether by Chinese or foreign consular courts).

7. In the course of a brief and somewhat desultory discussion of this scheme, I made the points, firstly, that the inclusion of criminal as well as civil cases in (1) seemed to be going a very long way, much further, indeed, than we (Great Britain) had ever so far contemplated; and, secondly, that we had in any case to consider the fundamental question of principle, i.e., whether the problem was to be approached geographically in the manner now suggested, or subject by subject, as the Chinese codes were promulgated and enforced, which had, so far as I could remember at the moment, been the line hitherto contemplated by His Majesty's Government.

8. The suggestion made by M. Oudendijk in his scheme that the abolition of extraterritoriality should be approached progressively on geographical lines, i.e., by abandoning our rights in the first instance in the interior, is one which has frequently been considered by this Legation in the past, and which constituted, in fact, one of the alternative proposals for dealing with the extraterritorial problem formulated in my telegram No. 78⁶ of the 3rd January, 1927. The arguments in its favour are obvious, namely, that our commercial interests are now and are likely to remain centred in the treaty ports, that the principle of the grant of extraterritorial privileges connotes segregation of those enjoying it to a few centres where their activities can be effectively superintended by their own authorities, that it is not altogether reasonable that the extraterritorialised foreigner should be able (as my Dutch colleague put it) to carry his extraterritorial rights with him in his knapsack to the remotest corners of the Chinese dominions, that the mission-

⁵ Not printed. The draft was that transmitted in Peking telegram No. 424.

⁶ This should read 'No. 8'.

aries who constitute the bulk of the foreign population in the interior are, many of them, in favour of the surrender of their extraterritorial privileges, and that such a step would be in accordance with our general policy nowadays of shortening our treaty front in China with a view to standing on the essential points. The position of the big distributing companies naturally calls for consideration, but they work in the interior mainly through Chinese agents, and it may be of interest to note in this connexion that the representative in China of one of the big British firms engaged in this business (Messrs. Brunner-Mond) recently remarked to me (as already reported) that he did not attach any real importance to extraterritoriality except in Shanghai, where its retention was absolutely essential. It is sometimes further argued in favour of such a proposal that the Chinese should in turn be induced to throw the interior open to foreign residence and trade. There is, however, little chance of their doing so, seeing that they have always regarded the closure of the interior as one of the principal levers with which to secure the complete abolition of extraterritoriality everywhere. It is, moreover, at least open to question whether the opening of the interior would be really of any great advantage to our merchants in view of the tendency for many years of trade to concentrate in the big centres at the cost of the smaller ports, from many of which we have, in fact, withdrawn our consular representatives during the past decade or two; nor does the example of conditions in Japan appear to indicate that the situation is likely to alter in this respect in the China of the future. To my mind, the proposal, therefore, to abandon extraterritoriality in the interior should be viewed not so much from the standpoint of securing some advantage, but rather from that of the surrender of a non-essential right.

9. The arguments against dealing with the extraterritorial question on such geographical lines are equally obvious, namely, that all kinds of difficulties are likely to arise over conflicts of jurisdiction within and without the treaty ports, in connexion with the position of foreign shipping (which, except perhaps in the case of launches on 'inland waters', should certainly retain its extraterritoriality to the last), and the position of foreigners travelling between the treaty ports and employed, for example, in Chinese Government service on the railways and in the salt and postal departments in the interior. A further obvious criticism is that the least efficient of the Chinese modern courts are likely to be those established at the cities in the interior. Moreover, when the proposal was tentatively put forward in my telegram No. 8 of the 3rd January, 1927, above referred to, you considered (see Foreign Office telegram No. 55 of the 21st January, 1927) that it presented great difficulties and might be of doubtful value; and you expressed your preference, assuming that China carried out the recommendations of the Extraterritorial Commission, for dealing with the question subject by subject in the general order of (1) civil, (2) criminal, and (3) personal status matters, and transferring these subjects gradually to Chinese jurisdiction as and when Chinese laws and regulations dealing with them were promulgated and enforced, and modern Chinese courts became capable in number and staff of taking over the new jurisdiction. It must, however, be admitted that similar difficulties over

jurisdiction are likely to arise in dealing with the matter on these, as on geographical, lines, seeing that foreign nationals would find themselves subjected to the jurisdiction of Chinese courts in certain types of cases and to that of their own courts in others.

10. On the 13th May the four Ministers met again to discuss M. Oudendijk's plan. A copy of a minute of the proceedings at this meeting is attached (Enclosure 4).⁷ M. de Martel opened the proceedings by submitting a note by the French judge at Shanghai (M. Toussaint), who had been the French representative on the Extraterritoriality Commission, and who happened to be in Peking on a visit, commenting on M. Oudendijk's scheme (see Enclosure 5). It was agreed that this paper was a valuable contribution towards an examination of the problem which should be studied at leisure. M. Toussaint makes some good points, e.g., his reference to the submission of foreign banks to possibly insatiable demands, the importance of stressing, in any reply to the Chinese Government, the recommendations of the Extraterritoriality Commission, the more so as the Chinese note had been careful to avoid all reference thereto, the desirability of limiting the scope of M. Oudendijk's proposal No. (1) to civil jurisdiction, with the further reservation that foreign defendants should under no consideration be subjected to 'détention préalable,' and the inadequacy as a safeguard in criminal cases, where foreigners are defendants, of one foreign judge on the Chinese bench. On the other hand, M. Toussaint's suggestion for a further commission to estimate the progress made by the Chinese since 1926 and to work out a programme for a transitional period did not, in the light of recent experience of international commissions concerned with Chinese affairs, appear practicable. Nor did we agree that special courts with foreign co-judges, whatever their merits or demerits might be in regard to ordinary mixed cases, would necessarily be less efficient than the existing machinery of the Shanghai Provisional Court for dealing with the so-called 'deputy cases'; though it was admitted that this was a purely speculative view; it all depended on the spirit with which the Chinese accepted such foreign co-operation in the working of their courts, if they could be induced to accept it at all. M. Toussaint's reservation with regard to the affairs of the French Yunnan Railway and its personnel was supported by the French Minister, which led to my observing that we also had railway engineers working in the interior in various parts of the country, and hinting that it hardly seemed necessary to allow that factor to impede our judgment.

11. After some further discussion, I suggested that, in order to make progress, we should try and ascertain the feeling of the meeting towards M. Oudendijk's plan, with special reference to his proposal No. (1). This led to a concrete, if tentative, suggestion by Mr. MacMurray that we might consider recommending M. Oudendijk's scheme to our Government as a series of trenches, the first of which might be the application of Chinese laws, so far as they could be accepted by the Powers, in the foreign consular courts at the treaty ports, coupled with the abandonment of extraterritoriality rights

⁷ Not printed.

in the interior so far as civil cases were concerned, subject to the reservation suggested by M. Toussaint in connexion with the detention of foreign defendants. To this I added the comment that in doing so we should regard the plan (part of which we, Great Britain, had, in fact, already offered to China in January 1927), not as one to be placed immediately before the Chinese, to whom the initiative should preferably be left, but as a counter-proposal to meet any unacceptable proposals which they might put forward. These suggestions were accepted, though more or less tacitly as far as the French Minister was concerned, by the meeting.

12. It was at this point that I suggested (see minute of meeting, enclosure No. 4) the desirability, which I had already mentioned at our second meeting, of bringing Japan into the discussion, which led to M. de Martel reading us a telegram from Paris, in which the French Government, while approving the draft reply to the Chinese note, with special reference to our taking our stand on the report of the Extraterritoriality Commission, urged the desirability of including the Japanese representative in any discussions at Peking. Mr. Hori, the Japanese Chargé d'Affaires, was accordingly invited to attend the meeting by the senior (Netherlands) Minister, who explained on his arrival the nature of the discussion and the point we had reached. It was not, however, found possible to carry the study of the problem further for the moment, and the meeting accordingly adjourned *sine die* until one or more of the representatives concerned had further proposals to make or instructions to communicate. I myself left for Shanghai on the following morning.

13. At the close of the meeting Mr. Hori accompanied me back to His Majesty's Legation, when I explained to him more fully what had preceded his arrival, and I emphasised the importance that Japan and we should do our utmost to pull together on this vital question. He agreed as to this, adding that extraterritoriality was one of the problems that would face Mr. Yoshizawa⁸ in his commercial treaty negotiations to be taken up in the near future. He was frankly ignorant as to the attitude of the Japanese Government on this question: but he would report what I had said about co-operation, in favour of which he personally was entirely disposed.

14. Having placed the above record before you, I do not propose at the present stage to formulate any more concrete recommendations pending further developments and possible opportunities which may present themselves of sounding the Chinese, more especially Dr. Wang Chung-hui,⁹ at Shanghai or Nanking as to their intentions on this question as well as the subsidiary one of the future of the Provisional Court. My personal instincts are inclined to favour an approach to this difficult problem along the lines laid down in M. Oudendijk's scheme, similar proposals to which have, as mentioned above, already been evolved in this Legation. But, at the same time, I should like to be assured that it is really feasible to differentiate in this way, especially in criminal cases, between the legal status of foreign nationals up-country and at the treaty ports. In conclusion, I would hazard the view

⁸ Japanese Minister at Peking.

⁹ President of the Judicial Yuan. This office was equivalent to that of Minister of Justice.

that it is quite possible that the progressive abandonment of our extraterritoriality rights under reasonable safeguards might not be followed by any material prejudice to British interests, provided stability of civil government, local and central, were assured, and an end put to irresponsible military rule. Unfortunately, this millenium has not yet arrived; and, though signs are not wanting that a new and better spirit has been called forth by the recent Nationalist renaissance, it is quite impossible to say at present whether or not we are really on the way to it. In these circumstances, our obvious policy is to go as slow as we can, withdrawing as and when necessary from our outposts, but, if possible, holding our main line of essential defences intact until such time as we can safely yield them. Above all, we must bear in mind the effect of any serious tampering with our extraterritorial rights on the position of Shanghai, the future of which is in itself a question closely allied to, and of almost equal, if not perhaps greater, complexity and magnitude as that of the future of extraterritoriality.

15. Meantime, as it is pretty clear that this question will certainly become a live issue in the near future, it would be of great assistance if I might be favoured, at your convenience, with any comment on M. Oudendijk's scheme and upon Mr. MacMurray's tentative suggestion upon it, together with any general indication of the line you would wish me to pursue on the whole question. My thoughts have at times turned to the possibility of entrusting to one or two experts the task of endeavouring to elaborate some practical scheme that would at least start the reduction of our present rights. I mentioned this the other day to my American colleague and found that he had had the same thought; he even added that he had at Shanghai, in the presence of Mr. Jacobs, the very man for the task (Mr. Jacobs was the assistant American delegate on the Extraterritoriality Commission). In our case we have at Shanghai Mr. Garstin,¹⁰ who acted in a similar capacity to Sir Skinner Turner.¹¹ But until we are clearer on what principle the matter is to be handled, I hardly see that we can proceed at this end, for the time being.

I have, &c.,

MILES W. LAMPSON

¹⁰ H.M. Consul-General at Shanghai.

¹¹ Judge of H.M. Supreme Court at Shanghai, and British Representative on the Extraterritoriality Commission.

ENCLOSURE 3 IN NO. 10

*Suggestions of W. J. Oudendijk for a Tentative Scheme for a Transition Period
previous to Complete Abolition of Extraterritoriality*

1. In the whole of the interior and in all ports which China has opened herself to foreign trade, all the foreign nationals will be under complete Chinese jurisdiction in all civil and criminal cases. These will be heard in modern courts and with the application of Chinese modern codes.

2. In the treaty ports, the civil and criminal cases, in which only the nationals of one foreign Power (enjoying the right of consular jurisdiction) are involved, shall be dealt with by the consul or competent judiciary authority of that Power.

3. All mixed cases, whether civil or criminal, whatever the nationality of the interested parties, shall be heard by a special Chinese court, applying the modern Chinese codes, consisting of Chinese judges and a foreign judge, chosen, appointed and paid by the Chinese Government for a definite number of years.

4. There will be five such courts—in Harbin, Tientsin, Shanghai, Hankow and Canton—which will also administer justice in cases of the neighbouring treaty ports.

5. The regularly promulgated laws of the land will be binding on all the residents, Chinese and foreign, also the municipal rules and regulations regularly issued by the local Chinese authorities, or by the legal authorities of the settlements and concessions.

ENCLOSURE 5 IN NO. 10

Remarques générales

La note chinoise est muette sur la contrepartie fondamentale, qui consisterait à octroyer aux étrangers le droit de commercer et de posséder dans tout le pays.

Elle affecte, d'autre part, de ne considérer la question que sous l'angle des affaires judiciaires. Or, l'abandon des immunités mettrait les étrangers extraterritoriaux et leurs entreprises, spécialement leurs banques, à la merci d'exigences insatiables. Il se dit déjà qu'on songerait à imposer aux banques étrangères le dépôt dans des coffres chinois d'une partie de leur encaisse, à titre de garantie pour la clientèle indigène.

Par ailleurs, il ne paraît guère possible que les concessions soient en mesure de survivre à l'extraterritorialité. C'est sans doute pourquoi leur rétrocession n'est pas maintenant demandée; elle s'ensuivrait virtuellement.

Positions préconisées

La première position prise, corollaire de la procédure diplomatique déjà suivie, est manifestement la plus forte, eu égard aux recommandations de la commission de 1926 et aux difficultés de réalisation de certaines d'entre elles. Il apparaît rationnel de s'y attacher avec autant d'insistance que la note chinoise a mis de soin à s'en taire. Le Japon viendrait de choisir précisément ce même terrain.

Le moment venu du repli, comment l'effectuer? De préférence par échelons successifs, en les défendant plus ou moins, selon leur importance.

Examen préalable

Offrir qu'une commission, qui n'aurait plus comme la première un rôle d'enquête, mais un rôle pratique de mise au point, apprécie l'état d'avancement du programme technique tracé en 1926 et soit chargée d'élaborer les

modalités d'un régime transitoire. Celui-ci devrait impérativement impliquer certaines modifications immédiates. L'on pourrait même fixer *ab initio* à la commission un plan complet, dont elle élaborerait les mesures de mise en vigueur.

Renonciations de Fond

Retenir le principe de distinction géographique proposé par le Ministre des Pays-Bas, et donner une première satisfaction pour tout le pays en dehors des ports à traités [*sic*], c'est-à-dire pour presque toute la Chine.

Limiter toutefois cette satisfaction, comme étape de début, à la reddition de la juridiction civile. Une seule réserve, mais essentielle, serait à spécifier : c'est qu'au civil le défendeur étranger ne puisse jamais, au titre de quelque règlement que ce soit, être soumis à la détention préalable.

Nous aurions, nous, à préciser que cette reddition ne comprît pas, au Yunnan, les cas concernant la compagnie du chemin de fer ou son personnel ; tous ces cas, même survenant à Yunnan-Fou, seraient regardés comme survenus à Mongtseu, port à traité.

La juridiction criminelle, même en dehors des ports à traités, ne serait à abandonner qu'en dernier lieu. C'est là que s'avèreraient bien vite les pires abus envers les étrangers destitués des immunités territoriales.

Lors de l'abdication du droit de juridiction tant au civil qu'au criminel, il serait tutélaire de réserver pour un temps un droit de regard, sinon des sièges de juges, à des conseillers étrangers.

Pour les ports à traités et dans les cas prévus à la proposition 2 du Ministre des Pays-Bas (cas n'incluant que des exterritoriaux de même nationalité), s'en tenir, comme il le préconise, à la juridiction consulaire. Avant d'imposer à celle-ci l'application des lois chinoises, ce qui pourra constituer un échelon ultérieur, il n'y aurait pas grand inconvénient à admettre *hic et nunc*, comme satisfaction de face, la présence d'un assesseur chinois. Celui-ci pourrait, dans les tribunaux consulaires français, remplacer avec voix délibérative un des deux assesseurs nationaux.

Lorsqu'on déciderait ensuite d'imposer aux cours consulaires l'application des lois chinoises, il conviendrait de conserver, conformément à un principe de droit international, la *lex fori*¹ pour régir la procédure. Ceci éviterait d'une part les recours aux cours chinoises supérieures et d'autre part, au criminel, l'action des parquets chinois.

Touchant les cas mixtes, la proposition 3 du Ministre des Pays-Bas équivaut à enlever aux cours consulaires une grande partie de leurs affaires pour les transférer à de nouvelles cours spéciales chinoises comprenant un juge étranger. À la rigueur, on peut envisager cette solution pour les cas civils. Mais elle impliquerait, au criminel, des risques considérables pour les étrangers exterritoriaux. Ils se trouveraient, pour commencer, à la discrétion du parquet chinois de la cour spéciale, et lors du jugement, la seule présence d'un juge étranger ne serait sans doute souvent qu'une garantie purement théorique.

¹ i.e. the law of the court in which a proceeding is pending.

D'autre part, la même proposition équivaut à faire disparaître, à Shanghai, la cour provisoire et la cour mixte française. Il est permis de se demander si la vie des concessions n'en serait pas fâcheusement affectée. Malgré son rôle de juge, l'étranger siégeant à la cour spéciale n'aurait pas l'autorité qu'a encore le délégué du corps consulaire à la cour provisoire. *A fortiori*, la situation serait-elle empirée pour ce qui regarde notre concession?

Ici encore il serait bon d'envisager des échelons. N'adopter au début la proposition 3 que pour les cas civils. Réserver ou régler spécialement le statut de la cour provisoire et de la cour mixte française de Shanghai. En outre, prévoir aux degrés supérieurs de juridiction l'adjonction de juges étrangers aussi bien qu'en première instance.

À la liste de la proposition 4 ajouter Mongtseu. Ne pas se dissimuler d'ailleurs que la Compagnie des Chemins de Fer du Yunnan se trouvera exposée, une fois devenue au civil justiciable de la cour spéciale, à des procès systématiques tendant à rendre sa situation intenable. Il semble douteux que la présence du seul juge étranger puisse être assez efficace pour y mettre obstacle.

No. 11

Sir A. Chamberlain to Mr. Ingram (Peking)

No. 204 Telegraphic [F 2314/64/10]

FOREIGN OFFICE, *May 16, 1929, 3.42 p.m.*

Following for Sir M. Lampson.

My telegram No. 202¹.

1. My immediately succeeding telegram² contains text of draft reply to Chinese note on extraterritoriality. Subject to any amendments which you may wish to suggest you should instruct Mr. Ingram to communicate the draft to your interested colleagues in Peking explaining that in substance it is intended to be the same as Mr. MacMurray's draft though perhaps the tone has been somewhat softened. I have also amplified draft with a historical justification for extraterritoriality and with references to the part we ourselves have played in dealing with this matter in the past.

2. Mr. Ingram should suggest that each Minister should if he see fit incorporate in his own draft as much of our draft as he considers suitable and applicable. It seems preferable, however, in view of Chinese susceptibilities upon this point that the use of identic language in the various replies should as far as possible be avoided.

3. Mr. Ingram should also communicate draft to the Japanese Minister and endeavour to ascertain what view Japanese Government take of whole question including omission of Chinese to address note to them.

4. You should send the reply to the Chinese note a reasonable time after communication of draft to your colleagues. It seems however desirable to avoid if possible premature disclosure to the Chinese.

¹ No. 8.

² No. 12.

5. French Ambassador has informed me that his Government approve Mr. MacMurray's draft and ask if His Majesty's Government agree. They are instructing M. de Martel to approach Japanese Minister with a view to joint action by the four Powers. I am deferring reply until I have received your observations.

Repeat to Tokyo.

No. 12

Sir A. Chamberlain to Mr. Ingram (Peking)

No. 205 Telegraphic [F 2314/64/10]

FOREIGN OFFICE, *May 16, 1929, 5.0 p.m.*

Following for Sir M. Lampson:—

My immediately preceding telegram.¹

Following is text of draft reply:—

Sir,

I have the honour to acknowledge the receipt of your note of the 27th April² in which you inform me of the desire of the National Government of the Republic of China that the restrictions imposed on the jurisdictional sovereignty of China by the system of extraterritoriality now in force should be removed at the earliest possible date with a view to the assumption of jurisdiction by China over all nationals within her domain.

2. I have communicated the contents of your letter to my Government and I am now instructed to transmit to you a reply in the following sense:—

3. Animated by the friendly feelings which they have always entertained towards the Government and people of China, His Majesty's Government have given their sympathetic consideration to the request of the Chinese Government relating to the abolition of extraterritorial jurisdiction in China. The high importance of this subject in its bearing both on the political development of China and the future relations between China and Great Britain appears to demand that it should be closely examined from every aspect. In particular a just appreciation of the reasons for which, and the manner in which, the present system of extraterritoriality came into existence seems essential to a consideration of the proper method for dealing with the problem.

4. The system of extraterritoriality in force in China has its roots deep down in the past. For thousands of years, before science had improved communications, the Chinese people were secluded from the rest of the world by deserts and ocean and they developed a civilisation and a polity peculiar to themselves. A wide gulf was thus fixed between Europe and America on the one hand and China on the other.

5. In particular the conception of international relations as being the intercourse between equal and independent states—a conception which was

¹ No. 11.

² See No. 2.

woven into the very texture of the political ideas of the nations of the West—was entirely alien to Chinese modes of thought. When the traders of the West first found their way to the coasts of China the Chinese Government found it difficult to allow them freely to enter into their country and mingle with their people, nor did they recognise that the nations to which they belonged were the equals of China. These traders were therefore confined to a small section of a single city in one corner of the Empire and, while on the one hand they were subjected to many disabilities and to grave humiliations, on the other hand—by a species of amorphous and unregulated extra-territoriality, which was the natural outcome of these conditions—the responsibility of managing their own affairs and maintaining order among themselves was in some measure left to their own initiative.

6. Relations continued for many years upon this insecure and unsatisfactory footing. Friction was often dangerously intense and conflicts not infrequently arose, generally out of demands that some innocent person should be surrendered for execution to expiate perhaps an accidental homicide or that foreign authority should assume responsibility for enforcing the revenue laws of China.

7. The object of the first treaties was to secure the recognition by China of Great Britain's equality with herself and to define and regulate the extra-territorial status of British subjects. Relations between the two countries having thus been placed upon a footing of equality and mutual respect Great Britain was content that her nationals should continue to bear those responsibilities and to labour under those disabilities which respect for the sovereignty of China entailed upon them. Conditions did not permit the general opening of the interior of China and the residence of foreigners has consequently continued down to the present day to be restricted to a limited number of cities known as Treaty Ports.

8. His Majesty's Government recognise the defects and inconveniences of the system of consular jurisdiction to which the Government of China have on various occasions drawn attention. In 1902, in article 12 of the Treaty of Commerce between Great Britain and China signed in that year,³ His Majesty's Government stated their readiness to relinquish their extraterritorial rights when they were satisfied that the state of Chinese laws, the arrangements for their administration and other considerations warranted them in so doing. They have since watched with appreciation the progress which China has made in the assimilation of western legal principles, to which reference is made in your note under reply, and they have observed with deep interest the facts set out and the recommendations made in the report of the Commission on Extraterritoriality in the year 1926.

9. More recently in the declaration which they published in December, 1926, and the proposals which they made to the Chinese authorities in January 1927, His Majesty's Government have given concrete evidence of their desire to meet in a spirit of friendship and sympathy the legitimate aspirations of the Chinese people. They have already travelled some distance

³ Printed in *British and Foreign State Papers*, vol. 95, p. 49.

along the road marked out in those documents and they are willing to examine in collaboration with the Chinese Government the whole problem of extraterritorial jurisdiction with a view to ascertaining what further steps in the same direction it may be possible to take at the present time.

10. His Majesty's Government would, however, observe that the promulgation of codes embodying western legal principles represents only one portion of the task to be accomplished before it would be safe to abandon in their entirety the special arrangements which have hitherto regulated the residence of foreigners in China. In order that the semblance of reform should be translated into reality it appears to His Majesty's Government to be necessary that these western legal principles should be understood and be found acceptable by the people at large no less than by their rulers, and that the courts which administer these laws should be free from interference and dictation at the hands, not only of military satraps, but of groups and associations who desire to use the courts for the furtherance of political objects rather than for the administration of equal justice between Chinese and Chinese and between Chinese and foreigners.⁴ Not until these conditions are fulfilled in far greater measure than appears to be the case today will it be practicable for British merchants to reside, trade and own property throughout the territories of China with the same equality, freedom and safety as these privileges are accorded to Chinese merchants in Great Britain. Any agreement purporting to accord such privileges to British merchants would remain for some time to come a mere paper agreement to which it would be impossible to give effect in practice. Any attempt prematurely to accord such privileges would not only be no benefit to British merchants but might be fraught with serious political and economic dangers to the Government and people of China.

11. So long as these conditions subsist there appears to be no practicable alternative to the treaty port system that has served for nearly a century to regulate the intercourse between China and the British subjects within her domain. Some system of extraterritoriality is the natural corollary to the maintenance of the treaty port system; and the problem as it presents itself to His Majesty's Government at the present moment is to discover what further modifications in that system beyond those already made and alluded to above, it would be desirable and practicable to effect.

12. His Majesty's Government await the further proposals of the National Government as to the procedure now to be adopted for examining this question, and they instruct me to assure Your Excellency that they will continue to maintain towards any such proposals the same friendly and

⁴ This sentence was later amended to read: 'In order that these reforms should become a living reality it appears to His Majesty's Government to be necessary that Western legal principles should be understood and be found acceptable by the people at large no less than by their rulers, and that the courts which administer these laws should be free from interference and dictation at the hands, not only of military satraps, but of groups and associations who either set up arbitrary and illegal tribunals of their own or attempt to use the legal courts for the furtherance of political objects rather than for the administration of equal justice between Chinese and Chinese and between Chinese and foreigners.'

helpful attitude to which Your Excellency has paid so generous a tribute in the concluding paragraph of your note under reply.

Repeat to Tokyo.

No. 13

Sir A. Chamberlain to Mr. Garstin (Shanghai)

No. 17 Telegraphic [F 2345/1148/10]

FOREIGN OFFICE, *May 16, 1929, 6.30 p.m.*

Following for Sir M. Lampson:—

Your telegram No. 432.¹

1. The situation at Shanghai has for some time past caused me some anxiety. It would seem that a section of the British community misled by what happened at Hankow assumes that His Majesty's Government would be equally ready to surrender the International Settlement at Shanghai. This assumption ignores both their declarations and their actions in regard to Shanghai. They have constantly drawn a clear distinction between the two cases and the despatch of the Defence Force and the protection afforded by it to Shanghai should be ample guarantee that His Majesty's Government have not lost sight of the magnitude of the interests involved nor been lacking in due care for that great community. There is no ground therefore for feelings of panic or distrust such as seem to have existed.

2. Recent examples of this attitude of mind are to be found in

(a) the sale of the electricity undertaking which, though doubtless an excellent bargain from one point of view, must unfortunately bear in Chinese eyes the appearance of the first step in the process of liquidation preparatory to surrendering the Settlement to Chinese control.

(b) Sending Mr. Huntley Davidson to London without taking you or the Consul-General into their confidence, to propose a solution of the Shanghai problem which either of you would at once have pointed out was clearly impracticable.²

(c) The speeches at the ratepayers meeting reported in Shanghai telegram to you No. 124³ which together with the attitude of the British press and

¹ Not printed. In this telegram Sir M. Lampson enquired whether there was any special line the Foreign Office wished him to take in discussions with the British community at Shanghai where he was due to arrive on May 18.

² Mr. Huntley Davidson, Secretary of the China Information Committee and editor of the 'Shanghai News Bulletin', visited the Foreign Office in March 1929, on behalf of the British Chamber of Commerce at Shanghai and the British and American Members of the Shanghai Municipal Council, to suggest the creation of Shanghai as a Free City under the protection of the Powers on the model of Danzig. Sir M. Lampson subsequently reported that he had been informed in Shanghai that Mr. Davidson's mission was entirely unofficial and sponsored by eight or nine British firms in Shanghai.

³ Not printed. This telegram of April 20 reported speeches by Mr. Fessenden, Director-General of the Shanghai Municipal Council, and Mr. Green on April 19 against concessions being made to the Chinese Government when the Provisional Court agreement of 1926 came up for revision. See further No. 40.

Bulletin No. 3 of the Shanghai Publicity Bureau appear to me to be injudicious. It is easy to criticise much which the Chinese have done but I cannot think it wise to rouse public opinion among the foreign ratepayers to a dangerous pitch of excitement which must in turn react adversely on the state of Chinese feeling.

3. I mention these matters only for your own confidential guidance in the hope that you may be able to bring your great personal influence to bear upon the leading members of the British community. His Majesty's Government are greatly concerned not only to find the proper policy for the present difficult situation in Shanghai but also to secure the loyal co-operation of the local British community in carrying that policy to a satisfactory issue. We fully recognise how great has been the strain to which the British communities in China have been subjected during these troublous years and with what patience and fortitude they have faced their troubles.

4. It would not appear to me that any profound changes in the status of the International Settlement at Shanghai can be made for many years but in the meantime it is important that we should prepare for the changes that must eventually come and that our policy should be informed by the spirit and directed by the principles of our declaration of December 1926. The more gradually the changes are made and the more willingly reforms are introduced as they become possible, the more secure will be the interests of the Settlement and the better its relations with the Chinese authorities.

5. I hope that after your visit you will send me your considered views both on the present situation and on future developments. I may mention as examples Municipal Government, Chinese representation, extra-Settlement roads, Provisional Court, police, municipal taxation, harbour etc., but there is no aspect of the problem on which I shall not be glad to have your advice as to the lines on which and time at which we ought to move, so that each step may be part of a cohesive and stable policy and not merely a temporary expedient perhaps requiring to be retraced later.

No. 14

Sir A. Chamberlain to Mr. Garstin (Shanghai)

No. 18 Telegraphic [F 2450/24/10]

FOREIGN OFFICE, May 17, 1929, 4.40 p.m.

Following for Sir M. Lampson.

Your telegram No. 433.¹

His Majesty's Government are ready to proceed with negotiations as soon as the National Government are in effective control of Shantung and thus show they are in a position to take over Weihaiwei, i.e., we will proceed at

¹ Not printed. In this telegram of May 11 Sir M. Lampson asked, for his own guidance, whether His Majesty's Government wished to postpone the negotiations on Weihaiwei indefinitely or whether they would be ready to proceed with them as soon as Shantung was effectively controlled by the National Government.

any moment provided you are satisfied that these conditions have been fulfilled. We do not desire to postpone indefinitely.

No. 15

Sir A. Chamberlain to Mr. Garstin (Shanghai)

No. 20 Telegraphic [F 2314/64/10]

FOREIGN OFFICE, *May 17, 1929, 6.15 p.m.*

Following for Sir M. Lampson.

My telegram No. 204¹ paragraph 6.

French Government are very anxious that Japanese Government should take simultaneous steps with other Powers to state their views on extra-territoriality to the Chinese Government although the Chinese Note was not actually addressed to them. If you agree His Majesty's Ambassador at Tokyo may enquire intentions of Japanese Government in this matter and support the French suggestion.

Repeat to Tokyo and Peking.

¹ No. 11.

No. 16

Sir A. Chamberlain to Mr. Ingram (Peking)

No. 210 Telegraphic [F 2448/64/10]

FOREIGN OFFICE, *May 17, 1929, 6.35 p.m.*

Following for Sir M. Lampson.

My telegram No. 205.¹

In the course of a conversation with the Japanese Ambassador on May 15 I explained to him my views and my reasons for desiring a fuller reply and that I did not consider it wise to present identic notes to the Chinese Government.

Repeat to Tokyo.

¹ No. 12.

No. 17

Sir M. Lampson (Shanghai) to Sir A. Chamberlain
(Received May 20, 12.30 p.m.)

No. 7 Telegraphic [F 2479/64/10]

SHANGHAI, *May 20, 1929, 4.20 p.m.*

Your telegrams Nos. 202, 204 and 205 to Peking.¹

I have no amendments to suggest beyond substitution of word 'chiefs' for 'satraps' in paragraph 10.

¹ Nos. 8, 11 and 12.

As to date of presentation, consultation with the Japanese, though entirely desirable (see my telegram No. 2 to Tokyo from Shanghai²) may involve considerable delay; and as I should much like to present note to Minister for Foreign Affairs before I leave the south I should favour stating to colleagues in Peking that we shall present note ourselves on say June 2 which will probably be my last day at Nanking before going up river to Hankow if the situation permits.

I have informed Mr. Ingram accordingly and directed him to act forthwith on instructions in your telegram No. 204 to Peking.³

Repeated to Peking and Tokyo.

² Not printed. Sir M. Lampson informed Sir J. Tilley that he had had a 'long conversation with Japanese Chargé d'Affaires' before leaving Peking.

³ A reply was telegraphed from the Foreign Office to Sir M. Lampson on May 21 approving his proposals.

No. 18

Sir J. Tilley (Tokyo) to Sir A. Chamberlain (Received May 21, 10.15 a.m.)
No. 114 Telegraphic [F 2491/64/10]

TOKYO, May 21, 1929, 1.50 p.m.

Your telegram No. 204 to Sir M. Lampson¹ of May 16.

Vice-Minister for Foreign Affairs told me today that Japanese Chargé d'Affaires had been instructed to discuss question with and to take suitable means of communicating his . . .² to Chinese Government. This would not be done by note because Chinese note was not addressed to Japan and because way in which question has been left between two countries: namely that China considers treaty as expired while Japan considers it as in force.

Apparently they agree to differ. Japan's intentions had been explained to French Chargé d'Affaires who was satisfied. If I receive draft text of our note may I communicate it to Vice-Minister for Foreign Affairs?

Repeated to Peking.

¹ No. 11.

² The text is here uncertain.

No. 19

Sir M. Lampson (Shanghai) to Sir A. Chamberlain
(Received May 21, 3.45 p.m.)
No. 10 Telegraphic [F 2493/24/10]

SHANGHAI, May 21, 1929, 7.20 p.m.

Weihaiwei.

As I expected this was one of the first subjects raised by Minister for Foreign Affairs at our meeting on May 20. After recording history of previous

negotiations and subsequent delay in effecting a settlement he enquired whether I was now prepared to proceed.

2. In reply I read him extract from telegram No. 18 to Shanghai¹ and after drawing attention to the present state of affairs in Shantung and making a point that I must be in a position to assure you Chinese Government were in a position to take effective control of Weihaiwei (there were for instance rumours now current of trouble on Tientsien-Pukow railway) I enquired in turn whether he was prepared to sign 1924 draft as it stood.

3. He replied that not in its entirety and mentioned points reported in Mr. Newton's telegram No. 23 to Peking² concerning our prior mooring rights and number of buildings reserved for our use on the island as instances of minor points on which he would have to seek modification. On my side I made it plain that while we were prepared to sign 1924 draft with such purely verbal alterations as might be necessary to bring it up to date any modification of it would produce a new situation result of which I could not foresee.

4. We then had a lengthy fencing bout in the course of which I attempted to ascertain precise nature of modifications he desired without in any way committing myself to discussing them while he endeavoured to nail me down to agreeing or refusing to enter into negotiations.

5. In the end matter was left in the air outwardly on understanding I had still to satisfy myself that conditions in Shantung were such as to justify opening negotiations.

6. I explained to him subsidiary point about use of territory as sanitorium [*sic*] for our troops this summer and he raised no objection to date of actual rendition being postponed until the autumn.

7. On the assumption that there is no collapse at Nanking I feel that if we can sign 1924 draft more or less as it stands we should be well advised to do so arranging for postponement of actual rendition until a suitable date and knowing as we do that ratification is in any case necessary before it can come into force. Dr. Wang knows the extent to which earlier Government were committed to that draft but refuses point-blank to admit it and he tries in the course of argument to wriggle and minimise this commitment. His successor might well be less amenable and with every year's delay prospects of concluding agreement on original lines decreases [*sic*]. For above reasons I practically offered Dr. Wang immediate signature of draft if he accepted draft as it stood, but he refused. I shall endeavour to ascertain as informally as possible precise nature of modifications now sought with a view to accepting them if they are innocuous.

Have you any instructions? Dr. Wang left for Nanking last night. I follow him on May 27.

Repeated to Peking, Commander-in-Chief,³ Weihaiwei by safe opportunity.

¹ No. 14.

² See No. 5, note 3.

³ i.e. Vice-Admiral Waistell, Commander-in-Chief, China Station.

No. 20

Mr. Ingram (Peking) to Sir M. Lampson (Shanghai)

No. 26¹ Telegraphic [F 2519/64/10]

PEKING, May 22, 1929

My immediately preceding telegram.²

Yesterday I had long conversation with Japanese Chargé d'Affaires to whom I communicated draft with explanation on lines of Foreign Office telegram No. 204.³

In reply to my enquiries Japanese Chargé d'Affaires said that attitude of his Government towards the whole question of extraterritoriality was based so far as he was aware on the findings of Extraterritoriality Commission. But whereas general gist of those recommendations was that China must have completed certain reforms before the Powers abandoned their rights, recommendations left loophole for progressive abolition before reforms were carried out in their entirety. I inferred from his remarks that in reality Japan might some day find this loophole very useful and worth widening.

Japanese Chargé d'Affaires went on to explain that during the tariff autonomy negotiations Dr. Wang had given Japanese Minister specific verbal assurances regarding non-application to Japanese nationals of provisions of seven articles of July 7 last year governing status of nationals of non-Treaty Powers pending the conclusion of a Sino-Japanese Treaty of Commerce. Position in fact was that both parties had tacitly agreed for the present not to insist on what each considered to be strict legal rights of their case. It was possible that his Government might regard Chinese omission to address them at the same time as other Powers interested as a deviation from the spirit of these verbal understandings. But he had neither information as to his Government's views nor instructions as to attitude he was to adopt here towards deliberations of interested representatives.

Incidentally M. H[ori] assured me that negotiations for a commercial treaty had not yet begun.

Repeated to Foreign Office and Tokyo.

¹ This telegram was addressed to Shanghai as No. 26, and was repeated as No. 467 to the Foreign Office where it was received on May 22 at 1.35 p.m.

² Not printed. In this telegram Mr. Ingram reported a conversation with M. Oudendijk about procedure. They decided to invite Brazilian and Norwegian representatives to attend a meeting with representatives of the other interested Powers at which Mr. Ingram should expound the views of the British Government.

³ No. 11.

No. 21

Mr. Ingram (Peking) to Sir M. Lampson (Shanghai)
No. 29¹ Telegraphic [F 2573/64/10]

PEKING, May 23, 1929

My telegrams Nos. 25² and 26.³

At meeting this morning of representatives of six interested Powers and Japanese Chargé d'Affaires I explained position in accordance with instructions contained in Foreign Office telegram No. 204⁴ stating that it was intended to present note at a reasonably early date probably within next ten days.

Draft excited no definite comment save from Japanese Chargé d'Affaires whose observations are recorded in my immediately following telegram⁵ but I could not disguise from myself that my French colleague did not relish procedure nor my United States colleague the draft itself. Latter indeed after the meeting said as much to me adding that he was afraid that his Government would follow our example and eschew the more categorical phraseology of his own draft.

Repeated to Foreign Office and Tokyo.

¹ This telegram was addressed to Shanghai as No. 29, and was repeated as No. 469 to the Foreign Office where it was received on May 24 at 9.30 a.m.

² See No. 20, note 2.

³ No. 20.

⁴ No. 11.

⁵ No. 22.

No. 22

Mr. Ingram (Peking) to Sir M. Lampson (Shanghai)
No. 30¹ Telegraphic [F 2559/64/10]

PEKING, May 23, 1929

My immediately preceding telegram.²

Japanese Chargé d'Affaires said he had received instructions to inform meeting that attitude of his Government towards extraterritoriality question was still 'crude' to use his own word. His Government had formulated no final or definite plan and in coming negotiations Japanese Minister had widest possible discretion. Japanese Government would insist however that precedent conditions laid down in recommendations of Extraterritoriality Commission and preamble thereto (see bottom of page 93 of report Command Paper 2774 of 1926) shall be realised. He personally feared that final sentence of paragraph 10 of British draft³ would furnish Chinese Government

¹ This telegram was addressed to Shanghai as No. 30, and was repeated as No. 470 to the Foreign Office, where it was received on May 24 at 9.0 a.m.

² No. 21.

³ See No. 12.

with argument for resisting any opening up of the whole of China as above preamble authorised and reminded meeting of importance which his Government attached to land ownership throughout China and avoidance of anything which would weaken an eventual claim to it.

Repeated to Foreign Office and Tokyo.

No. 23

Sir A. Chamberlain to Sir J. Tilley (Tokyo)

No. 88 Telegraphic [2491/64/10]

FOREIGN OFFICE, *May 23, 1929, 7.0 p.m.*

Your telegram No. 114.¹

You may communicate draft text to Vice-Minister. We are communicating it confidentially to Japanese, American and French Embassies here.²

Repeat to Peking.

¹ No. 18.

² On May 24 Sir J. Tilley and Sir M. Lampson were informed that the draft text had also been communicated to the Netherlands Legation in London.

No. 24

Sir A. Chamberlain to Mr. Garstin (Shanghai)

No. 28 Telegraphic [F 2602/24/10]

FOREIGN OFFICE, *May 25, 1929, 7.10 p.m.*

Following for Sir M. Lampson.

Your telegram No. 20.¹

Now that you have made it clear that, subject to the provision in my telegram No. 18 to Shanghai,² His Majesty's Government are ready to implement the 1924 agreement, you should let Dr. Wang realize that he must bear the responsibility for such further delay as may be occasioned. If he still insists on requiring modifications you should ascertain their exact nature if necessary offering to go through the agreement article by article with him and to take note of the modifications which he desires for communication to His Majesty's Government with a view to their examination by Chinese and British experts. You should emphasize to Dr. Wang the desirability of his confining his proposed modifications to minor matters of detail and of keeping them to a minimum.

¹ Not printed.

² No. 14.

No. 25

Sir M. Lampson (Shanghai) to Mr. Newton¹ (Peking)
No. 38² Telegraphic [F 2630/64/10]

SHANGHAI, May 26, 1929

Extraterritoriality reply.

Please see principal colleagues individually and ask them whether there are any *specific* points they would like to see cut out or modified in our draft reply on extraterritoriality and repeat your reply to Foreign Office in order that we may secure an early decision whether recasting of our draft is really necessary or not. It is impossible for me here in Shanghai to act as a clearing house in this matter. Point is that provided we are all agreed as to *substance* of our respective replies, their precise form is a matter of minor importance.

Repeated to Foreign Office.

¹ Mr. Newton was in charge of H.M. Legation at Peking from May 23 to June 13.

² This telegram was addressed to Peking as No. 38, and was repeated as No. 31 to the Foreign Office, where it was received on May 26 at 9.0 a.m.

No. 26

Mr. Newton (Peking) to Sir M. Lampson (Nanking)
No. 49¹ Telegraphic [F 2659/64/10]

PEKING, May 27, 1929

(? Your telegram No. 38).²

In short time available before their departure this afternoon for Nanking it has been impossible to do more than have very brief conversations with my principal colleagues.

Senior Minister³ said he was recommending his Government to render a much more condensed reply. He had not yet studied our draft with very much care, being satisfied that in substance it covered the ground adequately. He would take a copy of it however with him and study it in the train exhaustively and give you in Nanking fruits of his maturer consideration of it.

My French colleague was disinclined to discuss the draft.

When pressed, however, he agreed he had no specific points of criticism and was satisfied as to its substance. He could see no advantage in dissecting it since clearly each Government would want to lay emphasis on different aspects of the problem.

For his part he was merely recommending his Government to insert in their note something regarding necessity for safeguarding rights of ownership of property.

¹ This telegram was addressed to Sir M. Lampson as No. 49, and was repeated as No. 479 to the Foreign Office, where it was received on May 28 at 9.0 a.m.

² The reference is uncertain but is presumably to No. 25.

³ i.e. the Netherland Minister.

United States Minister was more forthcoming in his comments which he would like to amplify to you in Nanking. He too had no specific point which he would like cut out or modified. It was all question of colours in which you were going to paint your picture. Our draft seemed to him to be compromise between efforts of a liberal and a die-hard artist consequently to lack balance and precision. He had not time in hustle of departure to expand this thesis but was looking forward to discussing it when we . . .⁴ Nanking.

Views of my Japanese colleague are contained in my telegram No. 30 and Peking telegram No. 470⁵ but I will ask him if he can amplify in this sense.

Repeated to Foreign Office No. 479, Tokyo, and Shanghai for Mr. Aveling.⁶

⁴ The text is here uncertain.

⁵ No. 22 was repeated to the Foreign Office as Peking telegram No. 470.

⁶ Mr. Aveling had succeeded Mr. Newton as H.M. Minister's personal representative with the National Government on May 23.

No. 27

Sir A. Chamberlain to Mr. Hewlett (Nanking)

No. 11 Telegraphic [F 2659/64/10]

FOREIGN OFFICE, May 31, 1929, 9.15 p.m.

Following for Sir M. Lampson.

Mr. Newton's telegram to you No. 49.¹ I have received no further observations from other Powers. You may therefore at your discretion present reply. I propose to publish here forthwith so please telegraph date of presentation.

Please repeat to Tokyo and Peking.

¹ No. 26.

No. 28

Sir M. Lampson (Nanking) to Sir A. Chamberlain (Received June 2, 9.0 a.m.)

No. 45 Telegraphic [F 2749/64/10]

NANKING, May 31, 1929¹

Extraterritoriality.

Your draft reply² to Chinese note was discussed at a meeting of Corps Diplomatique here May 30. No one had received any further instructions. French Minister said that his Government who had previously accepted United States Minister's draft were now considering latter further in conjunction with our draft. United States Minister said he was still waiting to hear from his Government who had his draft and our draft before them and were he believed composing something of their own. It was generally agreed that United States Minister's draft and ours were the same in substance.

¹ The time of despatch is not recorded.

² See No. 12.

French Minister observed that our draft, while appearing to be milder, was in reality stronger.

I took opportunity to explain our draft in the sense of your telegram No. 204 to Peking³ with regard to paragraph 5 of that telegram.

I said I was sorry to have appeared to wish to rush things. This had been due to my original intention to present draft before leaving Nanking. I offered to consider any specific objections, but none were made. Finally I agreed, subject to your concurrence, to defer sending in our reply until we could ascertain prospects of our all, or at least the more important of us, replying in substantially the same sense at approximately the same time.

I trust you approve my action in deferring presentation. I do not want to give the impression of forcing the hands of the others, nor on fuller reflection does it seem desirable now that we know definitely that other Powers are not likely to reply in the near future that we should stand in the limelight by sending in our reply alone.

Delay affords me opportunity of suggesting deletion of last sentence in paragraph 10 beginning with words 'some system' down to 'to effect' [*sic*]⁴ to which Japanese Chargé d'Affaires takes exception (see Peking telegram No. 30 to me⁵) and which strike me as somewhat undesirable for the reasons he gives, in which Japanese Minister concurs.

At end of meeting Japanese Minister informed us that he had received confidential verbal intimation from an authoritative Chinese source that it was the intention of Chinese Government to abolish extraterritorial rights of all Powers by January 1 next.

Repeated to Peking.

³ No. 11.

⁴ See No. 38.

⁵ No. 22.

No. 29

Sir M. Lampson (Nanking) to Sir A. Chamberlain (Received June 5, 9.0 a.m.)
No. 46 Telegraphic [F 2802/64/10]

NANKING, May 31, 1929¹

After today's [*sic*] Corps Diplomatique meeting (see my immediately preceding telegram²) Japanese Minister in reply to my question as to his Government's attitude regarding extraterritoriality in his forthcoming negotiations for treaty revision said their consent to abolition would be conditional on (a) the completion of basic codes as enumerated in second recommendation of Extraterritoriality Commission's report; and upon their execution.

(b) The necessary safeguards for the functioning of judicial courts, the administration of judiciary, and police. In this connexion they would wish to take into consideration numbers one and two of Commission's report.

¹ The time of despatch is not recorded.

² No. 28.

(c) Freedom of residence at ports and of carrying on trade, and enjoyment of private rights including ownership of land in accordance with the preamble of Commission's report.

2. The above were only some of the conditions to be complied with. His Government were still studying the question and he hoped for final instructions shortly: he was planning to return South about June 20 to open negotiations. Finally he emphasised that his Government attached the utmost importance to opening of the interior.

3. Reverting to Chinese intention to denounce existing extraterritorial rights on January 1, 1930 he told me *confidentially* his authority was the Minister for Foreign Affairs who had described it as the inauguration of the Chinese Government and had added that if necessary it would be done unilaterally. His comment to me on this was that Japanese would never agree to such a step unconditionally.

4. Finally he said that whilst in Tokyo he had impressed on his Government the necessity of collaborating in this question with ourselves and America and France adding that they had agreed. I told him that I felt such collaboration was most desirable and mentioned Acting Consul-General's scheme forwarded in my despatch No. 1 of May 15.³ No doubt on receipt of that I should receive some indication of your views as to its practicability in whole or in part.

Repeated to Peking.

³ Not attached to file copy of No. 10.

No. 30

Sir J. Tilley (Tokyo) to Sir A. Chamberlain (Received July 8)

No. 219 [F 3393/64/10]

TOKYO, May 31, 1929

Sir,

I have the honour to report that in accordance with your telegram No. 20 of the 17th May to Shanghai¹ I called on the Vice-Minister for Foreign Affairs on the 21st instant and represented to him the desirability of Japan associating herself with the reply which the other Powers were about to make to the Chinese note on extraterritoriality.

2. Mr. Yoshida explained that the position of Japan was rather delicate. The Chinese Government had denounced their treaty with Japan, and professed to think that that ended the matter. The Japanese Government held that the treaty was still in force. Neither side was doing anything in the matter, so that by a sort of silent consent things remained in *statu quo*. This, apart from the fact that the Chinese note had not been addressed to them, made it difficult for the Japanese Government to write such a note as the other Powers contemplated.

¹ No. 15.

3. I described to Mr. Yoshida, without at the time offering to give him a copy, the substance of your note, and urged the importance of Japan's acting in concert with the Powers in such a matter, since their policy seemed to be like ours, founded on the report of the Extraterritoriality Commission, and on the wisdom of proceeding by slow degrees.

4. Mr. Yoshida agreed, and said that although the Japanese Government could not write a note, the Minister would be instructed to convey their views to the Chinese Government in some convenient manner which would show that they were in general agreement with the other Powers. He told me that he had explained this intention to the French Chargé d'Affaires, who had been quite satisfied.

5. As to this latter statement there seems to be some doubt. M. Dobler's belief is that, without any intervention, the Japanese would have done nothing, and so far from being satisfied he is more inclined to urge me to make further representations. Before doing so I shall await the reply to my telegram No. 118² of the 29th May (No. 19 to Peking), as Mr. Yoshida's reasoning seemed to me not unsound, and as, in view of the fact that the notes are not in any case to be identic, his proposed action seemed to be adequate. It is, however, possible, and here M. Dobler and I are in agreement, that Mr. Yoshizawa is tending to take rather a high line with his Government and go his own way, in which case, in the absence of a note, we shall not know what action he has really taken.

I have sent a copy of this despatch to His Majesty's Minister at Peking.

I have, &c.,

JOHN TILLEY

P.S.—On receipt of your telegram No. 88³ I communicated the draft note to the Vice-Minister.

J. T.

² Not printed. In this telegram Sir J. Tilley enquired whether he should make further representations.

³ No. 23.

No. 31

*Sir M. Lampson (Nanking) to Sir A. Chamberlain (Received June 3, 9.0 p.m.)
No. 59 Telegraphic [F 2769/24/10]*

NANKING, June 3, 1929, 6.30 p.m.

Wei haiwei.

At further interview on June 2 I communicated to the Minister for Foreign Affairs substance of your telegram No. 28 to Shanghai.¹

We discussed question of examination of proposed modifications by experts. I told him my expert would be Mr. Teichman² and he said he thought of appointing for this purpose Mr. Chang, formerly in charge of ex-British Concession at Hankow; he did not know where Chang now was but

¹ No. 24.

² Chinese Secretary in H.M. Legation at Peking.

would communicate with him as soon as possible. I said he might in the meantime let us have a list of his proposed modifications and I again stressed importance of their being reduced to a minimum.

Chang's appointment should in view of his friendly and helpful attitude at Hankow be a good one.

I have not overlooked your condition regarding stability in Shantung but I fancy there is already an improvement (Minister for Foreign Affairs claims that there certainly is) and in any case coming into force of agreement and actual rendition can hardly take place until that side has cleared one way or the other.

Repeated to Peking, Weihaiwei and Commander-in-Chief.

No. 32

Sir J. Tilley (Tokyo) to Sir A. Chamberlain (Received June 4, 2.0 p.m.)

No. 123 Telegraphic [F 2786/64/10]

TOKYO, June 4, 1929, 3.40 p.m.

My telegram No. 118.¹

Vice-Minister tells me that Mr. Yoshizawa gathered from Sir M. Lampson at Nanking that he feared Japan contemplated some rash and sudden move in regard to extraterritoriality. Mr. Yoshizawa was anxious that you should be reassured. Mr. Yoshida said that Japan contemplated no rash move such as she had taken during Tariff Conference.² Now that Tsinanfu affair was settled which was an individual question for her, she wished to co-operate and saw no difficulties in the way of carrying out such a policy.

Her intention was to proceed on lines of Commission's report but it was true she attached much more importance to question of open [*sic* ? opening of] country than other Powers did. I said I presumed that Japanese Chargé d'Affaires, Peking, had urged this point of view and understood he had done so. I also impressed on Mr. Yoshida importance of giving their verbal answer to Chinese note about same time as written answers of Powers. If verbal communication were made a month or two later idea of co-operation would be lost. He admitted this point but said that he heard date of sending in the notes had been indefinitely postponed. He explained that for Japan extraterritoriality in South Manchuria was a separate question. They had already expressed their willingness to exchange it for open [*sic* ? opening of] country and leasing rights. He did not believe Mukden Government would agree but if they did Japan would make exchange. This would not affect their attitude in rest of China.

Repeated to Peking.

¹ Not printed. See No. 30, note 2.

² The reference may be to the refusal of the Japanese Government to approve the draft agreement put forward in 1926 by the Delegates of the Powers taking part in the Special Conference on the Chinese Customs Tariff.

*Sir M. Lampson (Nanking) to Sir A. Chamberlain (Received June 4, 6.0 p.m.)
No. 66 Telegraphic [F 2800/53/10]*

NANKING, June 4, 1929, 4.25 p.m.

In the course of a four hour conversation with Japanese Minister on June 1 I explained outlines of our draft commercial treaty.¹ He was more particularly interested in the article dealing with inland water navigation which he said tallied exactly with the line he was instructed to follow.

On no account would Japan agree to abandon her inland water rights on which Nisshin Kisen Kaisha was entirely dependent.

In regard to his own treaty negotiations there were in addition to inland navigation two main subjects to be covered (a) tariff autonomy, (b) extraterritoriality. As to (a) Japan would be ready to grant it but only on condition of a conventional tariff. As regards (b) I gathered position to be that Japan would be ready to agree to abolition of extraterritoriality on terms mentioned in my telegram No. 46 to Foreign Office² provided whole interior were thrown open. In the meantime Japan would be prepared to consider some partial or geographical diminution of her rights in exchange for opening of interior in such regions as such partial relinquishment of extraterritoriality applied to. In short Japan's attitude would be based on recommendations of Extraterritoriality Commission.

Both during this conversation and subsequently Japanese Minister expressed hope that as our interests were much the same we should keep in closest touch respecting the course of our negotiations. I assured him that I fully intended to do so.

As regards raising of Legations to Embassies I explained our attitude and received an assurance from Japanese Minister that his Government would take no steps in the matter without prior consultation with His Majesty's Government.

Repeated to Tokyo No. 9 and Peking.

¹ Sir M. Lampson presented the British draft of a commercial treaty with China to Dr. Wang on June 2: see Introduction. On June 20 Dr. Wang submitted a Chinese counter-draft which was unacceptable to His Majesty's Government as a basis of discussion as it presupposed the abolition of extraterritoriality while still restricting for British subjects the privileges of entry, residence and trade to the localities in which they might be enjoyed at the time of the signature of the treaty. Another fundamental difference between the two drafts arose from the Chinese Government's desire that the treaty should be binding on all parts of the British Empire, whereas the British draft provided that the treaty should be binding on Great Britain and Northern Ireland only and that other parts of the Empire might accede subsequently. Moreover the Chinese draft raised difficulties in connexion with British participation in Chinese coasting and inland water trades. It was subsequently agreed that discussions on the basis of the British draft should be carried on by experts from both sides. These discussions were, however, suspended after three meetings, as it was clear that no substantial progress could be made until the extraterritoriality question had been settled. It was also considered probable in H.M. Legation at Peking that the Chinese Government were anxious to conclude their negotiations for a commercial treaty with the Japanese Government before reaching an agreement with His Majesty's Government.

² No. 29.

No. 34

Sir M. Lampson (Nanking) to Sir A. Chamberlain (Received June 4, 6.0 p.m.)
No. 67 Telegraphic [F 2801/53/10]

NANKING, June 4, 1929, 5.30 p.m.

My telegram No. 66.¹

On June 3 Japanese Minister reverted to our conversation of June 1 and said that, if I agreed, he proposed to telegraph to his Government definitely proposing that he and I should collaborate closely over our treaty negotiations. From what I had told him it was evident that our policy was identical as regards extraterritoriality and inland water navigation. As to the convention tariff it seems we (Great Britain) had dropped the idea for the time being, he gathered on that too our ideas were not dissimilar.

2. I explained that according to my understanding that was so, but my Government had made no move regarding convention tariff since signature of tariff treaty last December. As to the other two subjects our views seemed to me practically identical. Not only was it common sense therefore that we should keep in closest touch but it was absolutely in harmony with the instructions for close co-operation where our interests were similar that both he and I had received last summer from our Governments. I would report at once what he had said and did not doubt that I will be authorised to act.²

Repeated to Peking and Tokyo.

¹ No. 33.

² Sir M. Lampson was informed on June 8 by Mr. Henderson, who had that day succeeded Sir A. Chamberlain as Secretary of State for Foreign Affairs, that his attitude was approved.

No. 35

Sir M. Lampson (Nanking) to Sir A. Chamberlain (Received June 5, 9.0 a.m.)
No. 71 Telegraphic [F 2814/3/10]

NANKING, June 4, 1929¹

At his own request I called on June 3 privately on President Chiang at his country villa outside Nanking. Only the President's wife and brother-in-law H. H. Kung were present and I was accompanied by Teichman.

In the course of conversation President showed particular interest in attitude of His Majesty's Government and Japanese Government towards Russia and also enquired whether I had any confirmation of a renewal of Feng's² association with Russians. I replied in the negative but referred to obvious dangers of driving Feng back into the north west and desirability of

¹ The time of despatch is not recorded.

² Marshal Feng Yu-hsiang had resigned from his office as Minister for Military Affairs on March 16 and withdrawn into Honan, where he was preparing for war against the Nanking Government.

his going abroad in other directions. President fully concurred and in discussing Russian machinations which he agreed were still going on mainly through Chinese agents in China he asked whether I would furnish him with any information that came my way on the subject. I suggested exchange of such information which he appeared to welcome and I promised to refer the matter to you by telegram.

Discussing the problem of Feng, the President explained necessity of Central Government asserting their authority. He said that no fighting had yet taken place so far as troops and Central Government were concerned and intimated that Feng had definitely retired on his way to Huashan in Shensi and that problem of Kuominchun was in process of liquidation.

Interview was of a most friendly and intimate nature and coupled with forthcoming attitude of Minister for Foreign Affairs at recent interviews affords further illustration of desire of present Chinese Government to stand in well with His Majesty's Government. So far as I am aware no other foreign representative in Nanking for the funeral ceremonies³ has been invited to call privately on Chiang or has indeed had any but the most formal conversation with him.

I am informed that President sent a telegram direct to the King on the occasion of His Majesty's birthday signed Chiang Chung-cheng (his official name). He also sent through me a special message of enquiry as to His Majesty's health.

Repeated to Peking.

³ The remains of Dr. Sun Yat-sen, Provisional President upon the inauguration of the Republic of China in 1912, who died in Peking on March 12, 1925, were interred at Nanking on June 1, 1929.

No. 36

Sir M. Lampson (Nanking) to Sir A. Chamberlain

(Received June 5, 4.10 p.m.)

No. 72 Telegraphic [F 2817/64/10]

NANKING, June 5, 1929, 4.50 p.m.

In conversation on June 3 Wang Chung-hui expressed earnest hope that our reply to the Chinese extraterritorial note would not lay too much stress on Extraterritorial Commissioners' report and recommendations. If it did present Government would deny all cognizance of report and he reminded me that Dr. C. C. Wu had refused to allow Commission to visit Canton. He added that though he had signed report himself his reservations in doing so had not been published.

2. Latter point strikes me as very weak but I imagine he feels in a dilemma : it is indeed even possible that it is for *personal* reasons that he has made whole of above suggestion. In any case sound policy is in my view not to embarrass him unnecessarily.

3. I explained that whilst our answer would inevitably turn down as impracticable in existing conditions any idea of immediate abolition of extra-territoriality it would certainly not be unsympathetic: we might even express readiness to study any concrete proposals China might care to put forward. Had he as a matter of fact any definite schedule in mind?

4. As usual he was elusive on this. Indeed I got the impression that his Government may themselves be in the same doubt how best to tackle subject. All he would say was that it was for *us* rather than China to make proposals: this I would not admit.

As Dr. Wang will shortly be in Europe—see my telegram No. 69¹—an opportunity may occur of your tackling him direct. I submit it would be useful if you did so.

Repeated to Peking.

¹ Not printed. This telegram reported that Dr. Wang was leaving for Europe on June 8 to attend the meeting of the Permanent Court of International Justice at The Hague.

No. 37

Sir M. Lampson (Nanking) to Sir A. Chamberlain (Received June 6, 9.0 a.m.)

No. 75 Telegraphic [F 2829/3/10]

NANKING, June 5, 1929, 9.0 p.m.

In private conversation at Consulate-General on June 4 Minister of Finance said he understood that President had raised with me question of relations with Russia. For China this was a vital matter in view of length of common frontier. From the way he spoke it became clearer than ever that President wished to know whether any change of attitude by His Majesty's Government towards Russia was likely e.g. resumption of relations.

I replied that I naturally could not foretell the future nor how His Majesty's Government's policy would shape: but I was quite sure that both they (or their successors in the event of a change of government) would be perfectly ready and indeed delighted to resume relations provided Russia would abandon her policy of unfriendly propaganda and stop attacks both inside and outside the United Kingdom and British Empire and would act properly towards us.

Soong enquired what our experience of Russian good faith had been before relations were broken off. I replied bad as the rupture of relations proved: Russia had time and again been definitely convicted of violating her promise to eschew propaganda and incursions into British domestic politics. He asked how then it was possible to guarantee that Russia would keep any promise she might give to China. China was anxious to be on terms with her great neighbour but would not and could not tolerate Russian intrigue in this country. I repeated that our past experience had been unfortunate and I believed that any present Russian promise not to intrigue would be worthless.

From above and President's talk (see my telegram No. 71)¹ I think Chinese Government are groping round for assistance and are genuinely anxious for advice: and if you could send them any message of a friendly kind, I believe it would both be appreciated and tend to strengthen apparently strong tendency at present to look to us as a special friend and counsellor. That that is their hope is the outstanding impression of my present visit. Chinese are by temperament very responsive to any sign of a genuine desire to help: and it stands out clearly from what I have seen and heard here that they are finding their burden a heavy one. President for example evinced an almost pathetic anxiety to know how foreign opinion regarded conduct of affairs by his Government. I did my best to assure him that we fully realised the magnitude of his task and the fortitude and skill with which he was tackling it. But he looks tired and is evidently feeling the strain. A message of sympathetic encouragement which I could deliver to him on my way down river in about a fortnight's time (I leave for Hankow on H.M.S. 'Suffolk' June 7 stopping a few hours on the way at Wuhu and Kiukiang) would, I submit, be a wise move.

Repeated to Peking.

¹ No. 35.

No. 38

Sir A. Chamberlain to Mr. Hewlett (Nanking)

No. 15 Telegraphic [F 2749/64/10]

FOREIGN OFFICE, June 6, 1929, 3.40 p.m.

Following for Sir M. Lampson:—

Your telegram No. 45.¹

I approve your action in postponing presentation of reply for the present.

I assume that the sentence you propose deleting is the sentence in paragraph 10 beginning 'Any attempt' down to 'people of China' and not as stated in your telegram under reply. This is my understanding of Japanese objection as stated in Mr. Ingram's telegram No. 30 to you.² Sentence in question strengthens the argument which runs through the whole of our draft and I should regret having to delete it. If however the Japanese Government on full consideration remain of the opinion that its retention may prejudice their negotiations I am prepared to delete it in order to manifest that spirit of co-operation in our policy towards China which the Japanese have so earnestly appealed to us to maintain. You might however represent to your Japanese colleague that retention of the sentence in question might impel Chinese Government to argue that there are no political or economic objections to opening the interior of China and that such argument might play into the hands of the Japanese if as I understand one of their principal objectives is to obtain such opening-up of the interior. So it might materially assist

¹ No. 28.

² No. 22.

Japanese negotiations if Chinese Government were manœuvred into adopting such an attitude.

Owing to propinquity and other considerations Japanese nationals occupy a special position in China and their interests stand on a somewhat different plane to those of other Powers. I can well conceive therefore that Japan may consider it desirable to make certain concessions in order to obtain the right of residence in special localities, for example Manchuria, though it would not be safe for other Powers, whose nationals would derive no benefit from such a privilege, to make similar concessions. To this extent therefore it seems probable that Japan may wish to pursue a policy of her own in this matter, but this only makes it all the more desirable that she also, with complete frankness and loyalty, should maintain the spirit of co-operation. In particular it seems essential that all the Powers should unite in adopting a firm attitude towards any attempt on the part of China to cancel by unilateral action the extraterritorial provisions of the early treaties.

Repeated to Washington.

Repeat to Tokyo.

No. 39

Sir A. Chamberlain to Sir E. Howard (Washington)

No. 274 Telegraphic [F 2749/64/10]

FOREIGN OFFICE, *June 6, 1929, 3.45 p.m.*

Exterritoriality.

Our draft reply to Chinese note (see telegram No. 205 to Peking¹) has been discussed with foreign Ministers in Peking who were informed that in substance it was intended to be the same as Mr. MacMurray's draft though the tone had been somewhat softened, and it had been amplified with an historical justification for extraterritoriality and with reference to the part we ourselves have played in dealing with this matter in the past. It was suggested that each Minister should if he saw fit incorporate in his own draft as much of our draft as he considered suitable and applicable but that in view of Chinese susceptibilities upon this point the use of identic language in the various replies should as far as possible be avoided.

The Japanese Minister pointed out the importance which his Government attached to land ownership throughout China and avoidance of anything which would weaken an eventual claim to it. Sir Miles Lampson has therefore suggested deletion of last sentence of paragraph 10 which Japanese Minister feared would furnish Chinese Government with argument for resisting any opening up of the whole of China. My immediately succeeding telegram contains a repetition of my telegram to Sir M. Lampson giving my views on this point.² Japanese Minister has received confidential verbal

¹ No. 12.

² No. 38 was repeated to Washington as Foreign Office telegram No. 275.

intimation from an authoritative Chinese source that it was the intention of Chinese Government to abolish extraterritorial rights of all Powers by January 1 next.

United States Minister states that his Government have his draft and our draft before them and are, he believes, composing something of their own. You should discuss matter fully with the Government to which you are accredited and endeavour to ascertain their views and intentions. Presentation of our reply is being postponed for the present.

Repeated to Peking for Sir M. Lampson and Tokyo.

No. 40

Sir M. Lampson (Nanking) to the Secretary of State for Foreign Affairs
(Received July 27)

Unnumbered [F 3797/250/10]

NANKING, June 7, 1929

Sir,

With reference to my despatch of the 6th June¹ and Sir Austen Chamberlain's telegram No. 17² of the 16th May, I have the honour to submit the following general observations on the problem of the future of the International Settlement at Shanghai and the subsidiary questions of Chinese representation on the Council, the Provisional Court, the extra-Settlement roads and other local issues, which I took the opportunity to investigate during my recent visit to that port. This contribution to the study of this vexed and complex problem, as I judge it the most difficult of all the questions with which we are faced in the present state of transition in China, is admittedly of a tentative and speculative nature; for I am convinced that any attempt to lay down at the present stage a fixed plan or programme for the gradual transfer of the administration of the International Settlement to Chinese control would serve no useful purpose, and would only embarrass us in dealing with the situation as it develops and evolves in accordance with political changes in the Chinese Government and in their relations with the foreign Powers.

2. To begin with, I find in responsible British circles in Shanghai a general agreement with my view that the ultimate goal is a municipality of Greater Shanghai, embracing, as well as the International Settlement, the French Concession, the harbour and adjacent Chinese districts on both sides of the river, under a Chinese municipal administration with some form of adequate foreign participation in municipal affairs so far as they concern foreign interests. What are the methods by which this ideal is to be attained, and what precisely is the present position from which we start on our journey to attain it?

¹ The reference is probably to Sir M. Lampson's unnumbered despatch of June 5 from Nanking (not printed) in which he reported on his visit to Shanghai from May 17 to 27.

² No. 13.

3. The answer to the second question, being one of fact, is the more easily supplied. We have at present an international Municipal Council, under a British chairman, and predominantly British in composition, but including three Chinese members out of a total of twelve. The responsibilities resting on the shoulders of these twelve gentlemen in administering the government of what amounts to a huge international city, which, with its port and environs, constitutes the greatest commercial centre in the East, and includes in its diverse population some 30,000 foreigners and perhaps a million Chinese, must be incomparably heavier than those of any other group of municipal councillors in the world, embracing as they do not only the administration of public services, but also the provision of armed defence forces for the maintenance of law and order within the Settlement and its protection against possible aggression from outside. At the same time we find the Chinese authorities and the Chinese Government, both dominated by the party machine of the Kuomintang, apparently carrying on an intensive campaign for the recovery of control over the Settlement and the curtailment of its existing freedom of action, and to this end driving in at every crack and crevice of the foreigners' position. I say 'apparently', for it is at least an open question how far responsible Chinese leaders really desire at the present time the complete rendition of the Settlement, the continued existence of which is in many ways exceedingly convenient for them in the present unstable political conditions, and the efficient administration of which, with all the complicated machinery involved, is admittedly too big a task for the Chinese authorities to undertake at the present time. But, be that as it may, the position for the municipal authorities is sufficiently critical, and the nature of their task sufficiently arduous, to command the fullest attention, sympathy and support that we may be able to afford them.

4. As regards the first question, 'How can we safely reach our goal of a Greater Shanghai under Chinese municipal rule?' the programme that most of us have hitherto had in mind has been, on the one hand, the gradual sinification of the council and machinery of administration of the International Settlement by the progressive introduction of additional Chinese councillors and municipal employees, until, with a Chinese majority on the council itself, control of the Settlement will automatically pass into Chinese hands; and, on the other hand, something even more essential, namely, a corresponding improvement in the Chinese municipal administration of the extra-Settlement areas until the Chinese have, both inside and outside the Settlement, been educated in the theory and practice of municipal government up to the point of rendering possible the merging of the whole into one municipal area under Chinese municipal control without injury to the foreign interests concerned. This theory further postulates a corresponding development in the French Concession up to the point of it also being merged in the Greater Shanghai of the future, a proposition which, like the rest of the theory, errs possibly on the side of optimism. The essential point in all this is that the outlying, i.e., Chinese, areas should be brought up to the level of the International Settlement, and not the latter be brought down to the

level of the Chinese areas. I regard that as vital to any acceptable solution on these lines.

5. The above view, which might be termed the orthodox view, of the future of Shanghai has the advantage, particularly in the eyes of the Shanghai community themselves (who, after all, are the people most directly concerned), of postponing for a long time any serious progress towards the rendition of the Settlement to Chinese control. Its disadvantages are that in the meanwhile we may appear in some quarters to be following a policy of drift, and to be leaving the initiative to the Chinese, who are continually eating into our position. At the same time we are faced all the while by a series of subsidiary issues, such as the questions of Chinese representation on the Council, the Provisional Court and extra-Settlement roads, which are constantly boiling up and threaten at any moment to provoke a crisis. This state of affairs has led to the development of a school of thought, comprised for the most part of people interested in, but outside of, Shanghai, and holding somewhat more progressive ideas than those commonly held in the Chinese treaty ports, which condemns this 'policy of drift', and urges that we should make a bold step forward and meet the Chinese in their legitimate desire for a fair share in the administration of the Settlement; and that, having thus satisfied legitimate Chinese aspirations and reached a new agreement with the Chinese Government regulating the status of the Settlement, we should be prepared, with full justification, to take our stand on it and maintain it, if necessary, by force. These are the views which I have heard expressed, for instance, by people like Mr. Warren Swire,³ and which were embodied in the proposals formulated early this year by Sir F. Whyte⁴ (see paragraph 26 below).

6. I do not question the theoretical soundness of such a scheme, provided—and this seems to me the crux of the matter—it is possible to reach an agreement with the Chinese without going beyond the margin of safety, and on this point I have grave doubts. These doubts are, I find, shared by the leaders of the British community, with whom I discussed the matter (in an entirely academic and non-committal way), and amongst whom I found a unanimity of view that the moment is altogether premature to make any such attempt, and that it is preferable to advance towards our goal progressively by stages along the lines indicated above. This is, indeed, the course of action I have myself hitherto pursued, as explained in a despatch which I wrote from Peking a month or two ago⁵ (I am unable in the absence of the Legation archives to give the reference); namely, to follow a policy of considered expediency and deal with these Shanghai problems as and when they arise, but always in as progressive a spirit as the circumstances of the moment may permit.

³ Of Messrs. Butterfield and Swire.

⁴ Sir Frederick Whyte, President of the Legislative Assembly of India, 1920–5, was appointed in March 1929 as adviser on political affairs to the National Government of China. Sir F. Whyte made it a condition of his employment that he should receive no salary. An American citizen, Mr. Thomas J. Millard, received a similar appointment at about the same time.

⁵ Peking despatch No. 422 of March 18 (not printed).

7. This brings me to a consideration of these actual problems, the first of which is that of Chinese representation on the Council. It will be remembered that the Chinese originally demanded the addition of nine Chinese councillors, and that by an arrangement, which was eventually carried into effect in 1928, they were provisionally satisfied with three. This year they returned to the charge and demanded two more seats (instead of another three as they had at first proposed). I had no doubt in my own mind that the Council and the ratepayers would be well advised to accede to this request, and I have not omitted to let my views in this respect be known in responsible quarters. Other counsels, however, have prevailed, whether or not due to the election of a new Council and a certain stiffening which I have sensed in the attitude of the leaders of the foreign community towards the Chinese I do not know. It must, however, in fairness be admitted that the reasons for this refusal to increase, at the present time, Chinese representation on the Council are not without weight, notably in regard to the fact that the Chinese members function not so much as municipal councillors as political instruments of the Chinese Government and the Kuomintang. I was confidentially informed, for instance, that the Chinese members were found to be divulging to the Chinese authorities the minutes of the Council meetings. Then there is the anomaly that, in introducing further Chinese members into the Council, we are increasing the Chinese element in a municipal body, one of whose most weighty responsibilities is the provision of defence measures aimed, *inter alia*, against Chinese political aggression, which it is the duty of the Chinese councillors in loyalty to their country and their party to further. And, lastly, there is the fear, whether well founded or not I do not profess to know, that the Japanese members of the Council may side with the Chinese and thus constitute an Asiatic majority, which will be able to outvote the European-American element; I am informed that a tendency on the part of the Japanese to side in this way with the Chinese is already noticeable.

8. We are thus for the moment faced with an apparent *impasse* on this question of increased Chinese representation on the Council, which, as indicated in paragraph 4 above, is the generally accepted method by which a gradual transfer of the administration of the International Settlement to Chinese municipal control may be effected. I and others may point out the short-sightedness of a policy of refusal to meet the apparently reasonable aspirations of the Chinese to an increased share in the administration of the Settlement, and quote in this connexion the example of Tientsin, where a Council half Chinese and half British, under a British chairman, administers the affairs of a British municipality with complete success. Against this, conditions in Shanghai and Tientsin are, we are informed, vastly different (and this, it must be admitted, is indeed the case); the Shanghai ratepayers could not, under existing circumstances, be induced to go further in the matter than they have already gone; and there for the moment the question must rest. I am not, however, without hope that given time this problem may not [*sic*] solve itself (as so many others have done) so that we may yet find it possible to pursue the course of the progressive sinification of the Council until some-

thing like parity between the Chinese and foreign elements has been reached (as at Tientsin), preparatory to the final step, when the time is ripe, of increasing the Chinese element to a majority and thus effecting the transfer of the administration of the Settlement to Chinese municipal control. If, after all, this course is found in the end to be impracticable (and this may prove to be the case), other methods of approaching the problem may have to be sought, a train of thought which is further explored in the final paragraphs of this despatch.

9. Next in importance to the problem of Chinese representation on the Council, and for the moment surpassing the latter in urgency, is the question of the Provisional Court, which is generally, and I think rightly, regarded locally as the key to the maintenance of law and order in the International Settlement by the municipal authorities. I devoted as much time as I could spare during my stay in Shanghai to the discussion of this very contentious and involved question with Sir S. Barton⁶ (before his departure), Mr. Garstin (His Majesty's Consul-General), Mr. Fessenden (former Chairman of the Council and now Director-General of the Municipal Administration), and Mr. Arnhold⁷ and the other British Councillors.

10. The Provisional Court came into existence under the agreement for the rendition of the 'Mixed Court,' concluded in 1926 between the Consular body and the Provincial Government of Kiangsu. This agreement is due for revision at the end of this year, and the terms of the revision have to be negotiated during the year. The Chinese Government have officially notified the foreign Ministers concerned of their desire to enter into negotiations for a final settlement of the question of the Shanghai 'Mixed Court', with a view to assimilating the existing judicial organisation (i.e., the Provisional Court) with the rest of the Chinese judicial system. This amounts to a request to negotiate the complete rendition of the court. On the foreign side the local foreign press, led by the leading British organ, the 'North China Daily News', has been loud in its denunciation of the Provisional Court and demands the revision of the agreement backwards in the direction of increasing rather than diminishing the element of foreign control exercised through the Senior Consul's deputies (who sit in Chinese criminal cases affecting the peace and order of the Settlement), and the consular assessors (who sit in so-called 'mixed cases').

11. From the above very brief summary of the situation it will be seen how difficult the problem is. Its solution and the line to be taken by the Consular and Diplomatic Bodies in their negotiations with the Chinese authorities and Chinese Government are still being debated locally, and I will therefore confine myself in this despatch to a few general observations embodying the conclusions reached as the result of my local discussions.

12. Responsible leaders of the community are, I think, prepared to accept, though with some reluctance, the thesis that our object is to secure the establishment within Settlement limits of a Chinese court which will ad-

⁶ Mr. Garstin's predecessor as H.M. Consul-General at Shanghai.

⁷ Chairman of the Shanghai Municipal Council.

minister the necessary measure of justice to support the maintenance of law and order within the Settlement by the foreign municipal authorities, that is to say, that it will mete out prompt and adequate punishment to Chinese or non-treaty Powers' criminals brought before it by the municipal police. This involves the abandonment of the view, which is, and has always been, held locally, that it is the duty of the municipal authorities to protect Chinese residents against the operation of the court in cases where such operation falls below Western conceptions of justice (see in this connexion paragraph 4 [14] of my despatch of the 6th [5th] June on the subject of my interview with Mr. Fessenden).

13. Accepting the above thesis as the basis of my investigation I found a complete unanimity of view that it is essential to retain some system of 'watch dogs' to exercise the necessary surveillance over the operation of the court in criminal cases, to ensure that justice is so meted out to Chinese criminals or that any failure on the part of the court to do so may be brought promptly to the notice of the foreign municipal and consular authorities. Under the rendition agreement of 1926 this duty of 'watch dogs' has been carried out by the Senior Consul's deputies. This system has, however, given rise to much friction, partly, I fancy, through a misconception on the part of the deputies as to their duties and the failure on the part of the Consular Body to rectify their attitude. That is to say, the deputies, or rather certain individuals amongst them, have imagined it to be their duty to insist, by direct action in court, on upholding their view of a case against the opinion of the (Chinese) judge, instead of merely recording their protest and reporting to the Senior Consul for such action as he and his colleagues might deem it desirable to take. A good illustration of this friction was provided by the Van den Berg case, which so nearly precipitated a crisis in the affairs of the court, and which arose out of a Chinese criminal case in which there was no foreign interest and which only very remotely affected the peace and order of the Settlement. There has also been a great deal of trouble over the publication in the local press of the deputies' protests, some, at least, of which have been of doubtful validity in law, and which, owing to the publicity given them, have given rise to much ill-feeling and many mutual recriminations in the press. This last point should be easy to deal with, namely, by refusing to the press reporters access, which they have hitherto enjoyed, to the police records of the cases, leaving them to make up their own accounts of the proceedings by taking notes in court.

14. If we postulate that it is essential to retain some system of 'watch dogs', the question remains as to whether it may not be possible to evolve some system less offensive to the Chinese judiciary and less liable to cause friction than the existing deputy system. This point is now being further investigated locally and is one to which I have requested Mr. Garstin to devote special attention.

15. Another point which is now being considered locally is whether it is necessary to retain, as far as we are concerned, at Shanghai, the system of consular assessors in mixed cases (i.e., in cases in which a foreigner appears as

plaintiff), a system which is based on a treaty right which we have abandoned elsewhere in China (in accordance with our treaty alteration offer of January 1927).

16. One of the main points to which I addressed my investigations at Shanghai was the extent to which the court had, in fact, failed to administer justice, whether in criminal or civil cases. The conclusion I reached on such information as I was able to obtain was that the position in this respect, though in some ways serious enough, had been exaggerated in the foreign press, and that the judges (Chinese) could be trusted to administer justice *provided there was no adequate reason why they should not do so*. In these latter words lies the crux of the situation, namely, that the judges cannot be relied upon to administer justice in cases where external political influences are brought to bear upon them.

17. The Diplomatic Body are now engaged in preparing a reply to the Chinese note requesting the opening of negotiations on the subject of the Shanghai 'Mixed Court'. They will agree to enter on these negotiations, and they will propose, for this purpose, a preliminary joint examination of the question by their local representatives at Shanghai with representatives of the Chinese Government. The Chinese may be expected to open their mouths very wide and will probably demand the complete rendition of the court to Chinese control, involving the exclusion of all foreign representation and the institution of the procurator system, which is *prima facie* incompatible with existing conditions in the Settlement. Negotiations will then probably reach an *impasse*, which, one can only hope, may eventually be followed by some compromise of the kind to which we are so well accustomed in China. Meanwhile, in order that I may at least clear my mind as to how far we can reasonably go to meet Chinese claims, I have directed Mr. Garstin to make a special study of the whole subject; and in a few minutes' luncheon conversation with the American Consul-General I also invoked his good offices in the same direction. But it is a question bristling with difficulties and technicalities, and at the time of writing I do not pretend to know my own mind on the question. It is, perhaps, just worth mentioning, before leaving this subject, that, in a short conversation two nights ago with Dr. Wang Chung-hui (head of the Judicial Yuan), I specially emphasised the view that the 'watch dog' system was essential and that I foresaw that we should have to insist upon it in some shape or form. I rather fancied from his look that he appreciated this and the reasons for it.

18. The next major problem on the list is that of the extra-Settlement roads, which the Council have, under the Land Regulations,⁸ the right to construct but not to police. In actual fact, the construction of these roads, and the subsequent development and policing of contiguous areas, have been used as a means of securing the extension of the Settlement, which was practically agreed to by the Chinese authorities some years ago, but which finally fell through for various reasons which need not be gone into here. This

⁸ The Shanghai Land Regulations of 1869 are printed in Hertslet's *China Treaties* (3rd ed., London, 1908), vol. ii, pp. 664-87. Cf. enclosure in No. 94.

problem of the extra-Settlement roads arises mainly in two areas: the western area, where roads have been built outside the Settlement boundaries up to and a long way beyond the railway line, thus opening up a new and desirable residential district, and the northern or Paoshan area, where the North Szechuen Road extension and Dixwell Road lead out of the Settlement to Hongkew Park and the rifle range, and where the local land investment companies have erected houses for occupation by Chinese and Japanese and the poorer classes of white residents. Of late, friction with the Chinese authorities has been mainly confined to the north or Paoshan area, where it is almost constant and at times acute. The trouble arises in the following circumstances. The Chinese authorities have to some extent accepted the situation so far as concerns the policing of the main roads, but resist attempts by the Council to take over areas lying off it. The land investment companies, on the other hand, have acquired plots of land off the main roads, have built private roads, which are their own property, and erected houses along them, thus creating enclaves of foreign-owned property served by private roads leading off the main roads. The Chinese, however, destroy the fences at the ends of the private roads, thus linking them up with Chinese territory, and claim the right to administer and police the areas thus opened up. In these circumstances friction naturally arises in many other ways also, such as over the question of building permits, the Chinese claiming that no buildings may be erected in these areas unless Chinese municipal building permits have been issued, the control of places of entertainment fronting on the main (municipal) roads and backing on Chinese territory, and in regard to conflicts of police jurisdiction generally.

19. Juridically, the foreign position in these extra-Settlement areas is, to my mind, weak, if it can be said to exist at all; but, from the point of view of common sense and the interests of the residents, the case for the extension of foreign municipal control over these areas has more in it. Apart from the interests of the residents themselves, there are those of the public utility companies (gas, water, electricity, telephone, tramways, and so on) to be considered, with special reference to the capital sunk in the laying of mains and other facilities for the distribution of public utilities. There is also the interest (and this is the most vocal one) of the land investment companies, who fear a slump in land values if the areas are surrendered to complete Chinese control, and who can point to the capital invested in the development of the districts in question; though against this it may be argued that they knew very well at the time that they were developing land outside the Settlement limits, and also that, come what may, the future of Shanghai is so assured that any slump in land values consequent on the surrender of extra-Settlement areas to Chinese control should be but a temporary affair. Lastly, there is what may be termed the strategic side of the question, in connexion with the defence of the Settlement, namely, the importance of being able to embrace, in any defence scheme, extra-Settlement areas and, especially in the Paoshan district, the control of an important and, indeed, the only main road leading into Shanghai from the north.

20. The solution of this vexed question of the extra-Settlement roads, which was favoured by Sir S. Barton, and which meets, I understand, with general approval locally, is somewhat as follows: that negotiations should be opened with the Chinese authorities (who raised the question at the end of last year by asking that the extra-Settlement roads be gradually turned over to Chinese management) and agreement reached along the lines of the surrender on terms to Chinese control of the area in the west beyond the railway, in return for the retention under the administration of the Council of the more fully developed area between the old Settlement boundary and the railway line (thus, in effect, securing in this direction the former Settlement extension under the guise of road development); while in the northern or Paoshan area (which, in contrast to the western area, has been to a great extent brought under Chinese municipal control) some sort of bargain would have to be reached by which the foreign authorities would retain the areas adjoining, at least portions of, the main road in return for the surrender of the rest. Possibly some arrangement might be come to by which the Municipal Council would pay subsidies for the upkeep and policing of the surrendered extra-Settlement roads in return for the necessary safeguards required by their surrender; a principle which might be the beginning of further municipal co-operation between foreign and Chinese authorities. I see no reason why these proposals should not have our support, and it is hoped that negotiations between the Consular Body and the Chinese authorities may open shortly on the subject. My own impression, which is necessarily of a somewhat superficial nature, is that we should concentrate on securing the retention under foreign control of the area in the west up to the railway line (in return for the surrender to Chinese control of the area beyond the railway); while we may find it politic to make considerable concessions in the northern or Paoshan area, provided the interests of the residents and the public utility companies can be adequately safeguarded by providing for the former the continued use of the facilities of the latter, and for the latter the continued right to supply these facilities under reasonable conditions. So far as one can see, the western district is the important area in which the future foreign development of Shanghai will take place, while a glance at the map will show that this is in fact the natural direction in which the Settlement may be expected to expand. The northern or Paoshan area, on the other hand, is the district in which the Japanese are mainly interested, and it will be necessary, before any negotiations are seriously entered upon, to try and ascertain their wishes and intentions. I should perhaps add in conclusion, so far as this subject is concerned, that there is no question of the foreign authorities putting forward any claim to the Chapei area, which is now fully developed under Chinese municipal control.

21. With regard to the question of local defence, it is perhaps as well to clear our minds at the outset in regard to the obligations and responsibilities which properly fall on the British ratepayers and members of the Council in this respect. As the result of the despatch and subsequent gradual withdrawal of the Shanghai Defence Force, the latter necessarily in the face of a

certain amount of local protest, we find ourselves steadily pressing the Council (an international body, now including a Chinese element) to increase their own defence forces, which are already a heavy burden on the community, beyond what they have hitherto considered practicable, with the means, financial and otherwise, at their disposal; and in this connexion we have urged upon them various schemes for the maintenance of armed forces for the defence of the Settlement against external attack. So far as these municipal forces are required for the purpose of strengthening or supporting the police in maintaining law and order in the Settlement against riotous Chinese mobs, armed robbers, or bands of brigands or uncontrolled soldiery, the responsibility for their provision may be held to fall properly on the ratepayers and the Council. But when it becomes a matter of protecting the Settlement against organised Chinese political aggression, it seems neither fair nor politic to endeavour to hold the municipal authorities responsible for the maintenance of armed forces adequate to resist such aggression, as though they represented an independent sovereign Power responsible for its own defence. The incongruousness of the situation is further emphasised by the presence on the Municipal Council of Chinese members, whose loyalty under existing conditions must, either spontaneously or under intimidation, almost necessarily be, not to the authorities of the International Settlement, but to the Chinese Government and the Kuomintang, who are seeking to undermine the position of the Settlement. I gathered whilst in Shanghai that, as a result of the steady pressure we have brought to bear, a movement is now on foot to spend a portion of the funds which accrue to the Council from the recent sale of the electricity plant on the maintenance of increased defence forces, the precise form of which has not yet taken shape; something in the form of military police seems the most generally favoured, up to a total (additional and as a separate unit from the existing forces) of 1,000 men.

22. The basic principles to bear in mind in regard to this question of the defence of the International Settlement are:—

- (1) That the responsibility for the policing of and the maintenance of law and order in the Settlement falls properly on the municipal authorities, who should for this purpose maintain adequate police forces, to which the volunteer corps should, as and when required, lend the necessary support;
- (2) That the responsibility for protecting the Settlement against organised Chinese political aggression or Chinese civil war chaos falls properly on the Governments of the Powers interested in the maintenance of the Settlement;
- (3) That so long as His Majesty's Government intend to uphold the integrity of the Settlement, they must be prepared, when the necessity arises, to despatch to and maintain at Shanghai adequate armed forces for that purpose; and
- (4) That in case of sudden emergency (after the withdrawal of the foreign troops), the defence of the Settlement against serious Chinese aggres-

sion must necessarily be conducted in the first instance by the municipal police and volunteer forces, assisted by naval landing parties, but only until such time as adequate military forces can be rushed up by the interested foreign Governments; in our case from Hong Kong.

23. With regard to the actual position of the municipal police force and volunteer corps—the former of which (as was admitted by all with whom I spoke) have been in an unsatisfactory state, owing, *inter alia*, to friction in the higher ranks—are now to be overhauled by Mr. Gerrard, who has been seconded from India for that purpose. In this connexion, I cannot help wondering whether it is really desirable to have as many Indian rank and file as are at present employed, in view of the undesirable influence to which Indians in China are exposed (and this applies with even greater force to Indian watchmen, who are still so largely employed at places like Shanghai); but the problem is obviously a difficult one, since there is a limit to the strain which can be imposed on Chinese police under foreign authority when in conflict with their own countrymen; and there may be no practical alternative to the employment of Indian (mainly Sikh) constables. Nevertheless, it is a point which I have felt bound just to mention. As regards the volunteer corps, there is a very general feeling in well-informed quarters, how far justified I am not in a position at present to say, that its numbers and efficiency would be increased under a more energetic commandant and a more capable adjutant. I have referred this rather delicate matter to Major-General Sandilands, G.O.C., China Defence Force. It is a purely British responsibility, seeing that both these officers are seconded for this special service from the British army. I hope to be in a position to forward in due course a report by the Military Attaché dealing with the matter,⁹ whom I asked specially to study it during my stay in Shanghai.

24. Another question on which my views were called for in Sir Austen Chamberlain's telegram No. 17 of the 16th May was that of municipal taxation. I am not clear as to what precisely is referred to, i.e., the payment of foreign municipal taxation by Chinese in the Settlement, or the payment by foreigners of Chinese municipal taxation in Chinese-controlled areas outside the Settlement. In regard to the former, I am not aware of any fresh issue having arisen, except in the case once or twice of the refusal of Chinese residents, acting under the orders of external political organisations, to pay municipal rates as a method of political protest. As such, this lever is always open to them, but in the last resort there is always the counter-move open to the municipal authorities of cutting off municipal services, such as light and water. I am glad to say, however, that, so far as I am aware, such ideas are non-existent on either side at the present time. In regard to payment of municipal taxes by foreigners in Chinese areas, we have already adopted a definite policy towards the question in all areas where foreigners reside in China under Chinese administrative control, namely, that British subjects are advised to pay Chinese municipal taxation provided it is reasonable in

⁹ Not printed.

amount and non-discriminatory in incidence; and in the case of Kiukiang we are going further and making, for the first time, the experiment of enforcing such taxation by King's Regulations, in accordance with our treaty alteration offer of January 1927. At Shanghai the problem, so far as it has been brought to my notice, arises in connexion with the introduction of a new Chinese house tax, which is payable half by the tenant and half by the landlord (similar legislation has, I undersand, been introduced at other places), and the complaints which have reached me come from British landlords representing land investment company interests, who have developed house properties outside Settlement limits in areas in dispute between the foreign and Chinese municipal authorities. On the information so far at my disposal the matter does not appear to be one which calls for our special intervention.

25. There remains amongst the subjects on which my views were called for in Sir Austen Chamberlain's telegram No. 17 above referred to only the question of the Whangpoo Conservancy and Shanghai Harbour, and this has already been dealt with in an earlier and separate despatch.

26. I venture to conclude this lengthy report with a few observations on the subject of certain proposals which have recently been aired in connexion with the future of the International Settlement at Shanghai. In paragraph 5 above I referred to the plan formulated by Sir F. Whyte early in the year, and I enclose, for convenience of reference, a copy of a private and confidential letter¹⁰ which he addressed to me shortly before he left China for England covering his proposals.

27. Sir F. Whyte postulates as his objective the retention of Shanghai as a secure economic base, not necessarily under its present form of municipal government, but enjoying a definite guarantee of security from disorder and the necessary minimum of municipal service. His method of reaching his haven of security is in its general outline the orthodox one of the gradual

¹⁰ This letter of April 27, 1929, read as follows:

'My dear Lampson,

'In February I wrote the enclosed note on Shanghai [not printed: cf. paragraph 27 below] in response to a request from home. It was intended for discussion by the group before any action was taken; now it has been submitted to the Foreign Office privately, the latter have asked me to supply you with a copy, which I gladly do. I think it speaks for itself. I would have sent you a copy before, but was awaiting some considered expression of opinion from London by which the substance and the form of the plan might have been better matured.

'I mentioned the idea to you on the 26th March, but I think you then thought it unlikely that His Majesty's Government would shoulder so much responsibility. Personally, I think it the only way.

'I go home, barring accidents, in the middle of May for two months.

'Yours very sincerely,

'A. F. WHYTE

'P.S.—The note is now even more confidential than when I wrote it, for then I was a completely free agent.

'A. F. W'

sinification of the Council and machinery of municipal administration and the education of the Chinese in the theory of decent municipal government. This will entail, he points out, a consideration also of Japanese and American claims to a greater share in the administration of the Settlement, involving an increase in the numbers of the Council and the abandonment of the theory of predominant British control, though not necessarily that of predominant British responsibility. He thus arrives at his conclusions, which are to the effect that a new agreement should be negotiated with the Chinese Government regulating the status of the Settlement in terms amply recognising Chinese rights to a share in its government and preparing the way for greater Chinese responsibility in this respect in the future. His Majesty's Government, having concluded this agreement (whether alone or in co-operation with the other Powers concerned), should then be prepared to take effective steps, should the necessity arise, to see that it is not disturbed during its currency. As to the question of the time to negotiate such an agreement, Sir F. Whyte, writing last February, finds a practical unanimity of view at Shanghai that the present is not the moment to move, and he therefore furnishes the answer 'not immediate, but soon', i.e., after the National Government had survived the Kuomintang Congress (in March) and gained greater stability all round.

28. My comments on Sir F. Whyte's proposals are brief. The general principles he outlines seem sound, *provided it is possible to reach a new agreement with the Chinese which will satisfy them*, at least for the time being, without overstepping the margin of safety, and on this crucial point I have grave doubts, which, as stated in paragraph 6 above, are, I find, generally shared in Shanghai. Without precise knowledge of how far we can safely go to meet the Chinese, and, what is even more important, some assurance in view that we shall in fact be able to satisfy them and secure a new agreement at all, it would appear to be a false, and even a dangerous, move to make. There is also likely to be great difficulty in bringing the other Powers concerned into line, though that difficulty is bound to occur in any solution that may be attempted. For I confess I cannot follow Sir F. Whyte in his apparent contemplation of an agreement made possibly with the Chinese Government by His Majesty's Government alone.

29. Nevertheless, the idea of settling our troubles and anxieties by reaching with the Chinese Government a new international agreement regulating the status and the future of the International Settlement is an attractive one, which deserves to be fully explored, and I have the honour to enclose in this connexion a copy of a note on the subject by Mr. Teichman (see Enclosure 2),¹¹ written for my consideration on the journey down to Shanghai, rather with the object of examining Sir F. Whyte's proposals in a new light than of formulating a definite scheme. The line of thought explored in this memorandum is that indicated in the final sentence of paragraph 8 above, namely that it is, perhaps, too much to expect that the Chinese will ever be educated up successfully to the theory and practice of independent municipal government

¹¹ Not printed.

as we understand the term; that the Chinese conception of municipal government, as now being developed all over China, is the continental rather than the Anglo-Saxon one, i.e., an official municipal administration with an elected council whose powers are limited to a measure of legislative and financial control, something on the lines of our own Crown Colony Government; and that a solution of the Shanghai problem may conceivably in the distant future lie along these lines. In hazarding this estimate, I wish to state clearly that I do so with all reserve and only because I have been directed to give some expression of view. My own strong instinct is that the real solution of the Shanghai problem will come by practical evolution, and that the fewer preconceived ideas one has on the subject the better in the long run.

30. In conclusion, I also enclose, as an additional contribution to the study of this vexed question, an extract from a private and confidential letter (see Enclosure 3)¹² addressed to his principals in London by Mr. Sheppard, of Jardine, Matheson and Co., covering a tentative scheme for the negotiation with the Chinese Government of an arrangement providing for the future of the Settlement. There appears, however, to be one fundamental flaw in Mr. Sheppard's proposals, in that he contemplates the opening of direct negotiations between the Municipal Council and the Chinese Government. I do not deny that much can advantageously be done by direct negotiations with the Chinese authorities concerned, commencing, say, with the question of police co-operation between the foreign and Chinese municipalities, and perhaps some arrangement for the joint financing and management of extra-Settlement roads. As will be seen from the enclosed copy (Enclosure 4)¹³ of an advertisement which has been appearing in the Shanghai foreign press for the past few days (the true meaning of which I do not profess to understand), the Chinese seem to have, in fact, much the same ideas regarding an eventual Greater Shanghai, embracing all the areas in the locality, as we have. But, as Sir F. Whyte aptly states in his paper, any agreement must be made through His Majesty's Government (and the other Governments), because they alone hold the sanction which can enforce it. Moreover, there is in any case little or no chance of the Chinese Government agreeing to open negotiations with the Municipal Council along the lines suggested in Mr. Sheppard's plan.

31. In view of the number and complexity of the questions dealt with in this despatch, an index to the various subjects is attached.¹⁴

I have, &c.,

MILES LAMPSON

¹² Not printed.

¹³ Not printed. This advertisement from the 'Shanghai Times' of June 1, 1929, was headed 'The City Government of Greater Shanghai' and began: 'With a view to the prompt realisation of the late Dr. Sun Yat-sen's aim to build up Greater Shanghai, this Government invites those conversant with municipal administration and city planning to submit to it general or specific plans for the development of areas within its jurisdiction.'

¹⁴ Not printed.

Sir E. Howard (Washington) to Mr. A. Henderson

(Received June 9, 3.5 p.m.)

No. 272 Telegraphic [F 2886/64/10]

WASHINGTON, June 9, 1929, 9.5 a.m.

Your telegram No. 274.¹

Extraterritoriality.

I asked Secretary of State this morning² whether he had seen British draft reply as well as that of United States Minister in China, what he thought of them and what shape he thought reply should finally take. He told me that he had seen both and although he had not yet made up his opinion as to exact phraseology of note he agreed generally with view that time had not yet come for abolition of extraterritoriality and of consular courts in China. What he had heard of working of Chinese court in Shanghai had not inspired him with any great confidence and in the interior of the country military satraps were still too powerful to admit of really impartial courts. He also agreed that replies while identic in substance had better not be identic in form. He then asked me if His Majesty's Government had considered what should be done if Chinese Government took the bit between their teeth and simply abolished extraterritoriality by unilateral action. I said I could not tell him. He said this was a contingency which would have to be considered.

I then said that I had seen a notice in yesterday's 'Washington Post' to the effect that the raising of United States legation in Peking to an embassy was again under consideration at State Department. Was this the case? He asked me how matter had stood when I last enquired about it. I said that so far as I remembered preceding Secretary of State had told me that United States Government had no immediate intention of exchanging ambassadors with Peking, that the moment seemed hardly ripe for such an action and that if it did later seem ripe he would consult the other Governments interested before taking such action.

Johnson of China Department who was present at both interviews confirmed this.

Secretary of State then said that he had been considering of late whether agreeing to Chinese demand for an embassy might not perhaps soften refusal of their request for abolition of extraterritoriality. He had not at all come to any decision about this and would have, of course, to consult the President. I said I hoped he would let other Powers know beforehand in good time what decision he did come to. He said he certainly would do so as he had no intention whatever of springing anything on us without notice or consultation.

¹ No. 39.

² This telegram was drafted on June 8.

Aide-mémoire communicated by the Japanese Ambassador, June 10, 1929
[F 2911/64/10]

JAPANESE EMBASSY, LONDON, *June 10, 1929*

The Japanese Ambassador has been instructed to express to His Britannic Majesty's Principal Secretary of State for Foreign Affairs the deep appreciation of the Government of Japan for the friendly spirit in which the British Government communicated through their Ambassador in Tokyo the draft of the reply which they propose to send to the National Government of China on the subject of extraterritoriality.

The Japanese Ambassador has been further instructed by his Government to state for the consideration of the British Government the views of the Japanese Government on this subject.

The Japanese Government have learned through their Chargé d'Affaires in Peking that the Ministers of the Powers concerned in the conversations on extraterritoriality recently held there came to the conclusion that the several Powers should communicate separately their replies in the matter to the National Government of China.

In view of existing conditions in China, where the judicial system is still far from satisfactory, public order is not effectively maintained, boycotts on foreign goods as well as anti-foreign feelings are unchecked, and many other obstructions to foreign trade are prevalent, the Japanese Government appreciate the attitude of the British Government as set forth in the draft of their proposed reply.

In the light, however, of the results of the Washington Conference and of the developments which have since occurred and in consideration of the aspirations of the Chinese people in relation to extraterritoriality, the Japanese Government cannot but feel that anything at the present juncture which would suggest to the Chinese people the idea that the abolition of extraterritorial jurisdiction is impossible of early attainment in existing conditions in China requires careful consideration from the wider standpoint. In the opinion of the Japanese Government, it seems opportune that the interested Powers should adopt as sympathetic and liberal an attitude as possible towards Chinese desires in this respect and should cooperate with one another in assisting the adoption of abolition.

The Japanese Government regard the conclusions of the Commission on Extraterritoriality in 1926 as a most useful guide to the solution of the problem and, with the purpose of giving as much satisfaction as circumstances permit to Chinese aspirations, are now endeavouring to devise concrete measures for a practicable scheme of abolition based upon the recommendations of that Commission but subject to such readjustments as may be found necessary in the present state of things in China. In this connection the Japanese Government hold that it is most important that China should be required to agree to the opening of the interior as a corollary to abolition.

The Japanese Government would be very grateful if the British Government could give their consideration to the above views and suggestions, and would communicate to the Japanese Government any observations thereon which they may desire to offer.

No. 43

Sir J. Tilley (Tokyo) to Mr. A. Henderson (Received July 8)

No. 236 [F 3397/64/10]

TOKYO, June 11, 1929

Sir,

I have the honour to report that I called on Baron Tanaka, at his Excellency's request, on the 7th June.

2. As stated in my telegram No. 126¹ of the 8th June, Baron Tanaka began by saying that, although the stability of the new Government in China was not yet assured, the foundations of a stable administration seemed to have been laid, and the Powers should give what help they could to further its success. It was most important that we should all keep in step, and Great Britain and Japan being the two countries most deeply interested in China, co-operation between them was particularly desirable. His Excellency was glad to know that the British and Japanese Ministers in Peking were working together in close communication.

3. I here observed that, from telegrams I had just seen, both as regards the new treaties and the question of extraterritoriality, the two Ministers were working together and had very similar views.

4. Baron Tanaka said that, as regards extraterritoriality, Japan was disposed to follow generally the recommendations of the Commission and to proceed by degrees. I said that I believed that they attached rather more importance to the question of the opening of the country than we did, to which His Excellency agreed. This, I said, was a matter for discussion at Peking. He also concurred when I said that I hoped that such verbal representations as he proposed to make to the Chinese Government on this subject would be made about the same time as the notes to be addressed to that Government by the other Powers.

5. The Minister observed that the present anti-Japanese movement in China was not an isolated or accidental thing; it represented an undercurrent of anti-foreign feeling, which might break out at any time and against any country; it was always at the service of the Government of the day if they wanted a weapon, and this was a very powerful motive for co-operation. China must not be allowed to play off one Power against another.

6. Baron Tanaka then read me the outline of his instructions to Mr. Mat-

¹ Not printed. This telegram of June 8 (received the same day) gave a brief account of Sir J. Tilley's interview with Baron Tanaka, Japanese Prime Minister and Minister for Foreign Affairs.

sudaira about extraterritoriality. They will form the material for a conversation with Sir Victor Wellesley, and do not appear to diverge much from the ideas of Sir Austen Chamberlain.

7. Baron Tanaka next mentioned the question of creating Embassies at Peking. As to this, I said that the Conservative Government had already shown its friendly disposition towards China by the renewal of diplomatic relations, and the Labour Government would doubtless be animated by an equally friendly spirit, but it could not be expected that on a detail like the question of Embassies the new Secretary of State, whose name even had not yet been published (the 7th June), would at once have an opinion. His Excellency said that while the situation in China was so uncertain he would not make any proposal to us on this subject, but he would probably do so later.

8. Turning again to extraterritoriality, Baron Tanaka said that, although it was true that we must proceed by slow degrees, the Chinese Government should be encouraged to think that if they met our views about reform they really would eventually attain their object. Any concessions that were possible should therefore be made. Without such encouragement the Chinese might easily become exceedingly difficult to deal with.

9. I told His Excellency that I obviously could not pretend to say what the views of the new Government might be, but I thought it could be taken for granted that they would be no less disposed than His Excellency to adopt a generous attitude towards China.

10. Before leaving, I asked His Excellency what he thought of the present situation in China, which, to judge from the latest press reports, seemed to be improving again. Baron Tanaka was less optimistic than I expected. He did not feel at all sure that Feng could be trusted to remain quiet, in spite of any professions that he might make; moreover, he believed that there was a movement inside the party against Chiang Kai-shek, which made the situation more insecure than it appeared.

11. On the day following that of my interview the 'Japan Times' published an entirely fictitious account of it, a copy of which I enclose. This is by no means the first time that the 'Japan Times' has committed a crime of this sort, and well-informed people would probably discount the story. My first idea, nevertheless, was to issue a flat contradiction. I reflected, however, that there was no great harm in the report, apart from its being wholly untrue; moreover, propagandists in China have been busy spreading the report that the Japanese Government wished to create an Embassy and that the British Government was holding them back. The author of the report might therefore be in hopes that I should contradict it, and that he would then be able to use my contradiction in support of the earlier allegations. I therefore confined myself to telling the American and French² Embassies that the report was fictitious. The Foreign Office has made no comment.

I have, &c.,

JOHN TILLEY

² *Note in original:* 'Also the German Ambassador and Polish Minister, who made enquiries later.'

ENCLOSURE IN NO. 43

Extract from the 'Japan Times' of June 8, 1929

RAISING OF STATUS OF CHINA LEGATION STUDIED BY POWERS

The opinion prevails among some political observers here that Great Britain and Japan will most probably act in unison in regard to the question of raising the status of their respective Legations in China to that of Embassies.

An unconfirmed report from America says that the United States is preparing to raise its Legation in China to Embassy in the near future, probably ahead of the other Powers.

As for the question of relinquishing extraterritorial rights in China, the Powers concerned are believed to be unanimously of the view that the surrendering of these rights should be gradual, in the degree that China is able to improve her laws and administration of justice.

Sir John Tilley, British Ambassador in Tokyo, called on Premier and Foreign Minister Tanaka at the Foreign Office at 3.30 p.m. Friday and conversed with him for fully an hour.

The question of raising Japan's Legation in China, which is being suggested frequently of late in the vernaculars, is said to have been the chief subject of the talk during the conversation. The Ambassador is believed to have asked for the intention of the Tokyo Government in regard to the question, in view of the popular suggestion for the early promotion of the status of Japan's Legation in China.

The British Ambassador intimated to Baron Tanaka that Great Britain, now that the Labour Cabinet has been formed, is likely to raise her Legation to the Embassy before long. He is understood to have asked Baron Tanaka further if a number of the big Powers might not be able to deal with the question simultaneously so as to raise their respective Legations to the status of Embassies in a uniform manner.

In reply, Foreign Minister Tanaka received the suggestion favorably and discussed with the British Ambassador as to the manner of inviting the other Powers to take the matter up. For this purpose, Japan and Great Britain are expected to ascertain the intentions of the various other Powers, it is believed by some people.

No. 44

Sir J. Tilley (Tokyo) to Mr. A. Henderson (Received June 13, 9.0 a.m.)

No. 134 Telegraphic [F 2963/64/10]

TOKYO, June 13, 1929, 12.20 p.m.

Peking telegram No. 70 [to Sir M. Lampson].¹

I pointed out today to Vice-Minister for Foreign Affairs that our draft

¹ Not printed. This telegram of June 10 (repeated to the Foreign Office as No. 496) reported that the Japanese Chargé d'Affaires at Peking had informed Mr. Ingram of the Japanese *aide-mémoire* of June 10 printed as No. 42.

note as I read it was not intended to convey the idea that we refused even to consider abandonment of extraterritoriality at present. His Majesty's Government seemed to me to be as ready as Baron Tanaka to make some preliminary concession which would encourage Chinese Government to expect greater concessions later on provided Chinese Government could show some grounds for such concession.

Indeed I gather from telegrams from Peking and from an approval sent by Foreign Office on June 11 that British and Japanese Legations were in harmony in their ideas on this subject.

I also pointed out that we appeared to have amended our draft as regards opening of China in order to meet Japanese views.

As Minister's Private Secretary seemed to think yesterday that 'Japan Times' was not very far wrong about our interview² I repeated to Vice-Minister for Foreign Affairs that I had made no proposals at all about creation of Embassy and as regards views of new Government had merely said that it was too early to expect them to have formed ideas on such a detail.

Repeated to Peking No. 28.

² See enclosure in No. 43.

No. 45

Mr. A. Henderson to Mr. Giles (Hankow)

No. 6 Telegraphic [F 2829/3/10]

FOREIGN OFFICE, *June 13, 1929, 5.15 p.m.*

Following for Sir Miles Lampson:

I have read with great interest your reports on your visit to Nanking and accounts of your various conversations with the President and Ministers of the National Government.¹ It has given His Majesty's Government great pleasure to learn that such good progress has been made towards more stable conditions and the establishment of a central government exercising real authority in China. His Majesty's Government fully realise the magnitude of the task with which the President and his Ministers are grappling; they appreciate the courage with which they continue to face their many difficulties and they earnestly hope that their efforts to bring back order and prosperity to China will be crowned with success. You should not fail to impress upon the President and his Ministers, at any suitable opportunity, that His Majesty's Government are animated with the friendliest feelings towards China and stand ready at all times to render any assistance which may be in their power.

¹ See Nos. 31, 35, 36 and 37.

No. 46

Mr. A. Henderson to Mr. Giles (Hankow)

No. 5 Telegraphic [F 2829/3/10]

FOREIGN OFFICE, *June 13, 1929, 5.30 p.m.*

Following for Sir M. Lampson.

Your telegram No. 75.¹

It is of course impossible to give China any advice as to her future relations with Russia or to make any statement as to our own. You should so far as possible decline to discuss the question altogether.

It would be difficult for me to send a personal message to the Head of a State but my immediately succeeding telegram² contains an expression of my views which perhaps you might find an opportunity of showing to members of the National Government, including the President, as evidence of the friendly and sympathetic attitude of His Majesty's Government.

¹ No. 37.

² No. 45. These telegrams were despatched out of order.

No. 47

Sir M. Lampson (Nanking) to Mr. A. Henderson

(Received June 21, 3.30 p.m.)

No. 101 Telegraphic [F 3134/24/10]

NANKING, *June 21, 1929, 4.50 p.m.*

Weihaiwei.

At interview on June 21 Minister for Foreign Affairs opened by saying that he had an important and vital communication to make viz. that as the result of conclusion of naval contract with us on June 20¹ Chinese Government had decided to construct a modern fleet and had chosen Weihaiwei to be their naval base of the future. In view of this decision which would involve further modifications of 1924 draft he doubted whether it was now worth while going through that draft. He suggested therefore that I should telegraph the above decision to His Majesty's Government in the first instance and did not respond to my repeated and pressing requests for his modifications of 1924 draft.

2. I said I was completely taken aback by this change of front. It was he who for months past had been pressing us to take the matter up and all our discussions had been specifically limited to 1924 draft. I reminded him of

¹ The reference was to the agreement signed between His Majesty's Government and the Chinese Government (on the latter's initiative) providing for the despatch of a British naval mission to assist in the development of the Chinese navy and for the training in England of Chinese naval cadets. At the same time the Chinese Government stated that it would place orders for warships with British yards.

Lord Balfour's note at Washington and pointed out that any fundamental departure from 1924 draft would hold matters up indefinitely. My instructions were to stand on that draft and I must decline to leave that ground. He enquired whether His Majesty's present Government had not modified my instructions and I replied in the negative. Teichman (who was with me and had taken part in the original negotiations) reminded him that negotiations of 1923 and 1924 had throughout been conducted on the assumption that China would sooner or later establish a naval base at Weihaiwei and that the 1924 draft was eventually produced with that possibility in mind. The two ideas did not necessarily conflict.

3. After much fencing Minister for Foreign Affairs agreed to refer again to the Minister of the Navy and to meet me again on June 22 when I hope I may get him to produce his list of modifications of 1924 draft and enable us to initiate serious discussion on that basis. But I may fail and he may try and break entirely fresh ground. I warned him several times that responsibility for any consequent delay must rest entirely with him.

4. My feeling is that this is a try on and unless I receive instructions to the contrary I shall adhere firmly to my instructions that while accepting minor modifications I must stand fast on the main points of 1924 draft. For example I shall take the line that no substantial modifications of article 23 and first exchange of notes² can be made as these are the essence of the whole agreement being the implementation of Lord Balfour's condition regarding naval facilities. I am aware that this may hold matters up indefinitely but submit that a firm line is fully justified: and China will be the loser if rendition is again delayed.

Repeated to Commander-in-Chief and Peking.

² Article 23 of the draft agreement of 1924 corresponded to Article 1 of the agreement regarding certain facilities for His Majesty's Navy after the Rendition of Weihaiwei (printed in Cmd. 3741 of 1930), except that the 1924 draft specified that the loan of buildings on Liukungtao island should be free of charge. The first exchange of notes attached to the 1924 draft referred to Article 23 and provided that if the British Government wished to renew the loan after ten years, the Chinese Government would not refuse renewal 'without reasonable cause'.

No. 48

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received June 23, 9.0 a.m.)

No. 105 Telegraphic [F 3173/24/10]

NANKING, June 22, 1929, 6.35 p.m.

My telegram No. 101.¹

I took the opportunity of a private conversation with Minister for Foreign Affairs late on June 21 to enquire real nature of difficulties which had arisen. He alleged that trouble was due to recent and sudden decision

¹ No. 47.

of Ministry of Navy to make Weihaiwei (including both island and mainland) the principal base for Chinese navy of the future and that Admiral Chen was insisting that Port Edward area, i.e. mainland, could not therefore be opened to foreign residents and trade. At his suggestion I saw Admiral Chen late the same evening and reasoned with him, explaining that the mainland was quite unsuited to be part of naval base, as even coasting vessels had to anchor some distance from shore, and that its continued use as a summer resort and commercial port was perfectly compatible with reservation of the island as a naval base, quoting the precedents of Hong Kong and naval ports in the United Kingdom. Admiral Chen did not argue his point, but was non-commit[t]al.

2. At interview on June 22 Minister for Foreign Affairs produced his list of modifications which, as he specifically explained, were made on the basic assumption that Weihaiwei, including Port Edward, would now be closed as a commercial port owing to its conversion into a Chinese naval base. Some of the modifications were minor changes, probably capable of adjustment, but two main points immediately emerged, firstly that all clauses providing for opening of Port Edward to foreign residence and trade were deleted and secondly that term of loan of naval facilities on the island to British Navy (Article 23) was cut down to three years without provision for any renewal, as against our idea of ten years subject to renewal (see first exchange of notes).² I informed Wang that these departures from 1924 draft and from principles of (? the first)³ note were so fundamental and so far beyond the limit of my mandate that I could not continue discussion on this new basis and must report to you.

3. In the course of subsequent conversation Minister for Foreign Affairs, who as a layman professed himself in general agreement with my views concerning the practicability of retaining Port Edward as a commercial port while reserving the island as a naval base, said he would do his best to induce the Ministry of the Navy to reconsider this point; he would let me know if he succeeded. If so, there would remain the question of the loan of naval facilities on the island under Article 23 and the first exchange of notes. The Chinese argument is that the grant of these special facilities to the British Navy is incompatible with the conversion into a Chinese naval base, and that the British Navy are reasonably provided for by having three years in which to make other arrangements.

4. It may be that the Chinese have introduced the question of the closing of the Port Edward area to foreign residence as a bargaining lever to get their way over question of loan of naval facilities and that they hope by eventually meeting us on former to make it harder for us not to meet them on latter. If they drop question of closing Port Edward and are (as I anticipate they will be) obdurate on question of British Naval facilities one method of bringing them to bedrock requirements might lie in referring question to local representatives of British and Chinese navies in hope that they might succeed

² See No. 47, note 2.

³ The text is here uncertain, but should probably read: 'principles of the Balfour note'.

in suggesting some acceptable solution. I am putting this idea to the Commander-in-Chief.

5. Meanwhile I request urgent instructions, with special reference to minimum requirements of His Majesty's Government in connexion with loan of naval facilities.

6. Copies of Chinese list of modifications and of minute of interview follow by post.⁴

Repeated to Peking, Commander-in-Chief and Weihaiwei.

⁴ Not printed. See, however, No. 60.

No. 49

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received June 23, 9.0 a.m.)

No. 107 Telegraphic [F 3179/24/10]

NANKING, June 22, 1929, 7.20 p.m.

Following for Sir V. Wellesley.

Begins:—

Chinese could hardly be more unsatisfactory over Weihaiwei and are in process of rapidly out-manceuvring us.

(2) On the assumption that they drop their foolishness about a closed port, but remain obdurate about naval facilities idea occurs to me of stating that I will take the risk of assenting to ten years omitting all reference to subsequent renewal: and that if they then refuse that I tell them it is useless my staying here longer and that I am leaving, the whole question having now to go home and be considered pending my next visit. It is just possible this might shake them.¹

(3) If in the meantime I had received your final instructions on indemnity² so much the better: if not Mr. Aveling could fix that up finally after my departure.

(4) I must leave here June 29 at the latest as otherwise I shall miss the new General Officer Commanding³ who is due back in Hong Kong. Moreover nearly two months of Yangtse heat has just about finished us all.

¹ Sir M. Lampson reported further to Sir V. Wellesley in his telegram No. 110 of June 24: 'I took the opportunity of an off day today to have informal talk alone with Admiral Chen. I explained the difficulty of my position—I could not possibly agree to the closing of Port Edward: I could not possibly accept less than ten years for naval facilities: but it occurred to me privately that the question of renewal thereafter might conceivably be omitted. I strongly urged him not to run the risk of antagonizing British Navy just when things were going so well and we had signed naval contract.

'I do not know but I fancy I made some impression.'

² See No. 54.

³ i.e. Major-General Sandilands, General Officer Commanding British troops in China.

Record by Sir V. Wellesley of a conversation with the Japanese Ambassador
[F 2911/64/10]

FOREIGN OFFICE, June 24, 1929

The Japanese Ambassador called this afternoon at my request and I handed to him the memorandum¹ which we had prepared in answer to his note of June 10² on the subject of the surrender of extraterritoriality in China.

After he had read it and we had gone through the other documents concerned I told His Excellency that we were rather puzzled as to what precisely the Japanese Government objected to in our proposed note to the Chinese Government.

As far as I could see there was no divergence of view between our two Governments at any rate as regards broad principles and if there was any difference at all it was in respect of method only.

The Japanese Government apparently set great store on taking as a basis for discussion the report of the Extraterritoriality Commission. In our view this was likely to arouse the resentment of the Chinese because they cordially disliked this report. They would hardly regard it as a sympathetic attitude on which the Japanese memorandum laid so much stress.

In our view it would be far wiser and more conciliatory to invite the Chinese to put forward proposals without mentioning the report of the Commission. We failed to see how such a procedure could in any way prejudice Japanese interests. On the contrary it seemed to us that it was more likely to help them than otherwise. I asked the Ambassador once more to read paragraphs 10 and 11³ and to tell me whether in his opinion there was anything in them to which the Japanese Government were likely to object and if so what. If he thought that the wording was a little too harsh we should be quite ready to soften it. I thought perhaps the modifications in red ink⁴ might be better. The Ambassador, after careful study of the paragraphs in question, replied that, speaking personally, he could detect no divergence of view between us nor could he see why the Japanese Government should raise any objections to the wording of those paragraphs though he agreed with me that the suggested modifications would be an improvement.

His Excellency said that he appreciated our reasons for abstaining from all mention of the Extraterritoriality Commission's report and that he personally would agree with our view. He said however that he could not commit himself without first consulting his Government with whom he would at once communicate by telegraph. He begged that we should hold our hand until he had received a reply. This I promised to do unless something very unforeseen should happen in the meantime.

V. W.

¹ Printed as No. 56.

² No. 42.

³ i.e. in the British draft. See No. 12.

⁴ i.e. the modifications telegraphed to Peking in No. 55.

No. 51

Sir M. Lampson (Nanking) to Mr. A. Henderson

(Received June 25, 5.45 p.m.)

No. 116 Telegraphic [F 3201/24/10]

NANKING, June 25, 1929, 7.40 p.m.

Weihaiwei.

Minister for Foreign Affairs summoned me to another meeting this afternoon. I had hoped this might mean some modification of his attitude or fresh discussion but it did not. He merely enquired if I had received any instructions on his proposals (my telegram No. 112)¹ to which I replied in the negative. As he was evidently not inclined in any way to come forward I felt bound to repeat to him substance of Foreign Office telegram No. 28 to me to [at] Shanghai² which I explained was my authority. On this his sole comment was that those were the instructions of the late and not of present Secretary of State.

It looks as though Minister for Foreign Affairs may be anticipating some modifications of policy on this question by His Majesty's present Government.

He enquired about indemnity and I told him I still awaited instructions which might be delayed by his eleventh hour amendments to our previously agreed texts (my telegram No. 102).³ But I hoped they would arrive before I left. If necessary I could stay for the purpose till June 30 rejoining H.M.S. Suffolk at Shanghai July 1.

Repeated to Peking and Commander-in-Chief.

¹ Not printed. This telegram gave the full text of the Chinese proposals.

² No. 24.

³ Not printed. This telegram had reported that Dr. Wang had communicated on June 21 amendments put forward by Dr. Sun Fo, Chinese Minister of Railways, to previously agreed texts for an exchange of notes in disposal of the British share of the Boxer Indemnity. These amendments would have weakened the assurances that railway materials purchased with Indemnity funds by the Chinese Government would be ordered from Great Britain, and that the funds would be applied to the rehabilitation of existing lines rather than to new construction. Cf. also Introduction and No. 54, note 1.

No. 52

M. Cambon to Mr. Ashton-Gwatkin

[F 3217/64/10]

AMBASSADE DE FRANCE À LONDRES, 25 juin 1929

Mon Cher Collègue,

Pour répondre au désir que vous m'exprimez dans votre mot d'hier,¹ je vous envoie, ci-joint, en double exemplaire, le texte définitif de la réponse du Gouvernement Français à la Note chinoise sur l'exterritorialité.

Je vous prie, mon Cher Collègue, d'agréer l'expression de mes sentiments les meilleurs.

ROGER CAMBON

¹ Mr. Ashton-Gwatkin had asked M. Cambon for a copy of the French note.

Exterritorialité en Chine

J'ai l'honneur d'accuser réception de la note en date du 27 Avril dernier, par laquelle vous avez exprimé l'espoir que le Gouvernement Français prendrait immédiatement en bienveillante considération le désir du Gouvernement Chinois d'être mis en mesure d'exercer son pouvoir juridictionnel sur toutes les personnes résidant en Chine.

Après avoir pris connaissance de cette communication, qui a fait l'objet de sa part d'un examen attentif, le Gouvernement Français m'a chargé de rappeler à Votre Excellence qu'au cours de la Conférence de Washington, il a donné volontiers son approbation à la Résolution du 10 Décembre 1921, aux termes de laquelle a été établie une Commission Internationale chargée d'étudier la question de l'exterritorialité en Chine.

Dans son Rapport du 16 Septembre 1926, cette Commission a formulé les recommandations dont elle a jugé que l'application pourrait permettre aux Puissances de renoncer à l'exterritorialité.

Prenant en considération les faits relevés par ladite Commission, le Gouvernement Français estime que, pour réaliser des conditions favorables à l'abandon des droits d'exterritorialité dont jouissent ses ressortissants, en vertu du Traité de 1858,² il est indispensable que le Gouvernement Chinois procède à la réforme de ses lois, de ses institutions judiciaires et de sa manière d'administrer la justice, conformément aux recommandations de la Commission, recommandations auxquelles le Délégué Chinois a donné son approbation. C'est quand ces réformes auront été accomplies et qu'elles seront effectivement entrées en pratique que le droit de résider et de posséder des immeubles et de faire du commerce dans la Chine tout entière, contrepartie obligatoire de l'abandon de l'exterritorialité, pourra constituer pour les ressortissants français un avantage réel équivalent à celui dont jouissent les Chinois en France.

Le Gouvernement Français, animé des sentiments d'amitié qu'il a toujours manifestés à l'égard du peuple chinois et dont il a donné une nouvelle preuve l'an dernier, à l'occasion de la signature du Traité relatif à l'autonomie douanière, ne doute pas que le Gouvernement Chinois ne mette tous ses soins à réaliser ces conditions nécessaires à l'examen du problème de l'exterritorialité.

C'est dans cet esprit que, fidèle à ses traditions libérales, il m'a chargé de vous donner l'assurance qu'il continuera de porter un intérêt attentif aux réformes qui restent à accomplir à cet effet et qu'il enregistrera tous faits susceptibles de démontrer que ces réformes sont effectivement entrées dans la pratique administrative et judiciaire des autorités et de la population chinoises.

Il ne manquera pas, d'autre part, de mettre à profit les occasions qui se présenteront de collaborer utilement avec les autorités chinoises, s'efforçant ainsi d'amener plus promptement un état de choses qui lui permett[r]ait de modifier avec les garanties nécessaires le statut juridique actuel des ressortissants français en Chine.

² Printed in *British and Foreign State Papers*, vol. 51, pp. 637 f.

No. 53

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received June 26, 12.40 p.m.)

No. 117 Telegraphic [F 3218/24/10]

NANKING, June 26, 1929, 12.40 p.m.

Following for Wellesley:—

My telegram No. 116.¹

Dr. Wang is gambling on putting his blatant try-on over us. I devoutly trust he will not succeed or all future negotiations will be *pro tanto* more difficult.

I cannot exaggerate his present shiftiness and unreliability both in debate and in practice. He unblushingly repudiates his subordinates (cf. Wiltshire case)² and I can never trust him even when he gives me his word himself. A stiff line from home would be highly salutary and his weak spot is the Boxer indemnity scheme which he takes it for granted will go through. It would be no bad thing to let him know that he is not the only one who can make difficulties.

¹ No. 51.

² See No. 65, note 1.

No. 54

Mr. A. Henderson to Mr. Hewlett (Nanking)

No. 21 Telegraphic [F 3186/57/10]

FOREIGN OFFICE, June 26, 1929, 8.30 p.m.

Following for Sir M. Lampson, Begins.

Your telegram No. 115.¹

1. You should at once inform Chinese government that no Indemnity funds will be available for railway construction that ignores existing contracts; that the completion of the Canton-Hankow Railway is governed by the 1911 Loan Agreement;² and that in making our Indemnity proposals to the Chinese Government they had not been asked to give any undertaking that they would not repudiate their existing agreements since naturally it had been assumed that they would not do so.

2. General instructions regarding Indemnity will follow.³ In the circumstances I shall have to insist on an assurance that with regard to rehabilitation and building of railways out of funds remitted or from loans secured on

¹ Not printed. This telegram of June 25 reported that the Commercial Counsellor had learnt that the Minister of Railways had said that Boxer Indemnity Funds were now available for railway construction, and that he was prepared to discuss the terms of the Canton-Hankow railway contract with a Canadian company.

² See Introduction, note 25.

³ These instructions were not sent until December 30, 1929: see Introduction.

the said funds the terms of existing contracts will be taken into consideration. This is essential.

3. If Chinese Government ignore the provisions of 1911 Agreement, His Majesty's Government will protest most strongly against their action and naturally no Indemnity funds will be forthcoming to assist Chinese in an undertaking against which we shall subsequently have to protest.

4. If Chinese Government wish to proceed at once with completion of Canton-Hankow Railway out of Chinese funds and desire to purchase foreign materials British and Chinese Corporation should be approached by them in accordance with Article 18 of the 1911 Agreement.

No. 55

Mr. A. Henderson to Mr. Ingram (Peking)

No. 235 Telegraphic [F 2934/64/10]

FOREIGN OFFICE, *June 27, 1929, 4.10 p.m.*

My telegrams Nos. 205¹ and 234.²

I suggested to Japanese Ambassador that our draft reply might be modified as follows:—

Paragraph 10. Delete from 'be fraught' to 'dangers to' and insert 'involve', and insert 'in political and economic difficulties' after 'people of China'.

Paragraph 11. Insert between 'alternative to' and 'the treaty port system' 'maintaining, though, perhaps in a modified form'.

Paragraph 11. Insert between 'maintenance' and 'of the treaty port system' 'even in modified form'.

M. Matsudaira was of course unable to reply to this suggestion for his Government but undertook to telegraph to them text of proposed modifications.

Repeat to Tokyo.

¹ No. 12.

² No. 57.

No. 56

Mr. A. Henderson to Mr. Ingram (Peking)

No. 236 Telegraphic [F 2934/64/10]

FOREIGN OFFICE, *June 27, 1929, 5.0 p.m.*

Following is text referred to in my immediately preceding telegram.¹

'His Majesty's Principal Secretary of State for Foreign Affairs desires to express to the Japanese Ambassador the deep appreciation of His Majesty's Government of the courtesy of the Government of Japan in communicating

¹ The reference should evidently be to telegram No. 234, printed as No. 57. These telegrams were despatched out of order.

to them their views on the question of extraterritoriality in China. He has the honour to state for the consideration of the Government of Japan the views of His Majesty's Government on this subject.

'There appears to be no divergence between the views of the Government of Japan, as set out in the Japanese Ambassador's *aide-mémoire*,² and those of His Majesty's Government on the fundamental issues involved in the question of the abolition of extraterritoriality. His Majesty's Government fully concur in the opinion of the Government of Japan that the interested Powers should adopt as sympathetic and liberal an attitude as possible towards Chinese desires in this respect and that they should co-operate with one another in assisting the adoption of abolition. The policy of giving as much satisfaction as circumstances permit to Chinese aspirations is also the policy of His Majesty's Government. That is the attitude which they have endeavoured to adopt and the policy to which they have sought to give expression in their draft reply to the Chinese note. His Majesty's Government further agree that an immediate and total abolition of extraterritoriality being, as the Ambassador's *aide-mémoire* would appear to indicate, in present conditions impracticable, the recommendations of the Commission on Extraterritoriality provide a useful guide to a gradual and progressive solution of the problem. While, however, His Majesty's Government agree with the Government of Japan in holding this view they have judged it wiser not to press it upon the Chinese Government. They believe that it might facilitate a friendly solution of the problem if the Chinese Government could be induced to put forward concrete practical proposals of their own to serve as a basis of discussion. His Majesty's Government agree that the opening of the interior of China is the logical corollary to the abolition of extraterritoriality, but as abolition must be a gradual process the complete opening of the interior must await the complete abolition of extraterritoriality. Pending such complete abolition the treaty port system or some modification thereof must, it would appear, be maintained.

'His Majesty's Government fully appreciate that the special interests of Japanese nationals in China, which differ in many respects from those of other nationals, cause the Government of Japan to attach special importance to the question of the opening of the interior. They would welcome the conclusion of any arrangement—whether limited to particular regions or otherwise—which the Japanese Government might be able to make with the Chinese Government on this subject. They venture to think, however, that the lesser prominence which is necessarily given to this aspect of the question in their draft reply to the Chinese note should not prejudice any attempt which the Government of Japan may desire to make to attain this object of their policy. They believe that if their draft reply is presented and results in concrete proposals being put forward by the Chinese Government there is nothing to prevent the subsequent negotiations from pursuing a course exactly in harmony with the policy of the Government of Japan.

'They would be glad to learn whether these observations meet with the

² No. 42.

assent of the Government of Japan as in that event they would instruct Sir M. Lampson to present a reply to the Chinese Government, at a suitable moment, in the terms of their present draft.'

Repeat to Tokyo.

No. 57

Mr. A. Henderson to Mr. Ingram (Peking)

No. 234 Telegraphic [F 2934/64/10]

FOREIGN OFFICE, June 27, 1929, 6.0 p.m.

Peking telegram No. 70 to Sir M. Lampson.¹

My immediately succeeding telegram² contains text of memorandum handed to Japanese Ambassador³ in reply to his *aide-mémoire* on extraterritoriality⁴ (which is expanded version of message in telegram No. 70 under reference).

Though the point is not clearly brought out in the *aide-mémoire* it is possible that Japanese doubts are due to a misapprehension of our draft reply.⁵ Basis of reply⁵ is idea of maintenance of extraterritoriality (in modified form) and continuance of treaty port system (also in modified form) as necessary corollary to its maintenance, namely, the exact converse to that stated in first sentence of third paragraph of your telegram under reply. The opportunity was taken when handing *aide-mémoire* to Japanese Ambassador to explain this point to him.

Repeat to Tokyo.

¹ Not printed. See No. 44, note 1.

² The reference should be to telegram No. 236, printed as No. 56.

³ On June 24. See No. 50.

⁴ No. 42.

⁵ See No. 12.

No. 58

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received June 28, 5.0 p.m.)

No. 120 Telegraphic [F 3243/24/10]

NANKING, June 28, 1929, 8.0 p.m.

At final meeting June 28 I explained the position very frankly (your telegram No. 22 to Nanking)¹ to the Minister for Foreign Affairs and expressed great regret that owing to delays rendered inevitable by the Chinese attitude on both questions I had been unable to get them settled before my departure to keep another pressing engagement in the North. In studiously non-contentious language I recorded that the Chinese counter-proposals regarding Weihaiwei were not only poles apart from 1924 draft which was

¹ Not printed. Sir M. Lampson was informed that instructions would not reach him before he left Nanking.

my sole authorized basis for negotiations but more [*sic* ? were] also in diametrical contradiction to original terms laid down in Balfour Note of February 3, 1922, which made rendition conditional on (a) continued naval facilities to the British Fleet and (b) safeguarding of foreign property rights and representation. In the circumstances he must not be surprised if it took His Majesty's Government some little time to study the new situation that had arisen and for which they were in no way responsible.

2. Turning to the Boxer Indemnity, I read the text of your telegram No. 21 to Nanking.² For some time past rumours had been reaching us of the intention to float a loan secured on the Boxer funds (150 million dollars to be raised in America had been mentioned to me in one authoritative quarter). On top of these reports had come Sun Fo's very significant last minute amendments of our agreed Boxer drafts³ with net result that I was now instructed to bring your specific warning against any infraction of Hukuang contract of 1911. These instructions emanated from the present Government and not from their predecessors in office (see my telegram No. 116).⁴

3. Minister for Foreign Affairs said he thought that the fear underlying what I had just read to him was unfounded and added (I took down his words) that 'the Chinese Government had no idea of declaring existing contracts null and void; Dr. Sun Fo had in mind the probability of existing contracts being revised by arrangement in the same way that Boothby⁵ was now negotiating modifications of Shanghai-Nanking railway agreement. There was no intention of going back on existing agreements save by arrangement.'

4. On his going on to hint at use of Russian indemnity funds I pointed out that the same considerations applied as regarded 1911 agreements.

5. Finally I said discussions were only suspended; Mr. Aveling was remaining as my representative in the South; and if and when the further instructions on either of these questions reached me I would according to their nature communicate with him further.

6. Minister for Foreign Affairs was unusually silent and unargumentative during the interview. There can be little doubt that this delay in liberation of Boxer funds is a disappointment which is probably enhanced by the knowledge that it is no one's fault but their own.

Repeated to Peking, Commander-in-Chief, Weihaiwei and Hong Kong.

² No. 54.

³ See No. 51, note 3.

⁴ No. 51.

⁵ Representative of the British and Chinese Corporation which was engaged in a dispute with the Chinese Ministry of Railways over the Shanghai-Nanking railway.

No. 59

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received June 28, 5.45 p.m.)

No. 121 Telegraphic [F 3244/24/10]

NANKING, June 28, 1929, 5.25 p.m.

My telegram No. 120.¹

I regret not to have been more successful in these negotiations. But I do not believe any other result was possible in view of the Chinese attitude.

Full report on the discussions goes by post.²

¹ No. 58.

² See No. 60.

No. 60

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received August 16)
Unnumbered [F 4220/24/10]

NANKING, June 28, 1929

Sir,

As promised in my telegram No. 121¹ of to-day, I have the honour to submit the following report on my recent negotiations with the Minister for Foreign Affairs on the subject of the rendition of Weihaiwei.

2. It will be recalled that, prior to my departure from Peking on the 14th May, the Minister for Foreign Affairs had on several occasions pressed Mr. Newton to procure through me a statement of the willingness of His Majesty's Government to reopen negotiations for the retrocession of Weihaiwei, and I was accordingly not surprised when at my first meeting with him on the 20th May, during my recent stay at Shanghai, Dr. Wang reverted to this question, referring to its previous history and recalling the fact that it had nearly been settled in Peking five years before at the time he was Minister for Foreign Affairs there; later on, there had been prolonged delays due to political causes, and more recently we had been waiting for a settlement of the Shanghai [? Shantung] troubles and the evacuation of the Japanese troops. The last Japanese troopship had just sailed from Tsingtao, and the time was therefore appropriate for taking the matter up again.

3. I replied in the terms of my instructions that His Majesty's Government naturally felt a certain moral responsibility in regard to the safety of the inhabitants of Weihaiwei; that, as soon as the Chinese Government were in effective control of Shantung and could thus show that they were in a position effectively to take over control of Weihaiwei, His Majesty's Government were ready to implement the draft agreement of 1924 in any way that was most agreeable; that we would be ready, for example, to go through the form of negotiating the 1924 draft over again, but that we must stand by that draft.

¹ No. 59.

After some discussion as to whether the present state of affairs in Shantung was such as to justify His Majesty's Government in proceeding with the negotiations, I repeated that it must clearly be understood that any resumption of the negotiations would have to be on the basis of the draft agreement of 1924, and I enquired whether Dr. Wang would, in fact, sign that agreement.

4. Dr. Wang replied that he could not do so 'in its entirety', as there were a few points which required adjusting, such, for instance, as those relating to the preferential mooring rights for British warships, which implied that vessels of a third Power, say America, if already moored in the harbour, would have to give way on the arrival of one of His Majesty's ships, and the number of buildings to be reserved for the British naval authorities on Liukungtao, which appeared to the Chinese Government to be excessive. These were, however, minor points of modifications, and he had no objection to using the 1924 draft as a basis for negotiation.

5. A discussion ensued as to the extent to which the Chinese were committed to the draft agreement of 1924. Dr. Wang at first attempted to make out that this draft merely represented recommendations which had not been fully endorsed by the Chinese Government of the day, and that certain points had still been left outstanding. I was, however, able, with the support of Mr. Teichman, Chinese Counsellor to His Majesty's Legation, who was with me, and who had participated in the previous negotiations, to refute this, and to remind Dr. Wang that not only had the draft agreement of 1924 been fully accepted by Dr. Wellington Koo, but that Dr. Wang, on succeeding Dr. Koo in office, had himself offered to sign at that time, a point which Dr. Wang refused however to admit. The conversation then turned to the nature of the modifications which the Chinese desired to see introduced into the 1924 draft, with both sides fencing and manœuvring for position, Dr. Wang seeking to get me committed to the principle of the introduction of modifications into the 1924 draft, while I sought to ascertain what his proposed modifications were without committing His Majesty's Government to consider them. At the same time I made it quite plain that the introduction of any modifications whatsoever might very well alter the whole picture.

6. I should mention at this point that I had come to the conclusion we could not argue that the National Government were not now 'in effective control' of Shantung, judged by the standard of modern Chinese politics, while, in any case, I had planned that any agreement concluded now would only provide for the rendition of the territory upon ratification, which, it could be arranged, should take place at, say, the end of the year. There seemed, therefore, no longer any justification for holding up the negotiations on account of the political situation in Shantung.

7. I did not see the Minister for Foreign Affairs again until the 2nd June, the day after the State funeral of Dr. Sun Yat-sen at Nanking, when, having in the meantime received Sir Austen Chamberlain's telegram No. 28² of the 25th May, I was able to inform Dr. Wang that, His Majesty's Government

² No. 24.

being now prepared, subject to conditions in Shantung being satisfactory, to implement the draft agreement of 1924, he, Dr. Wang, must realise that the responsibility for such further delay as might be incurred would lie with the Chinese Government. I added that if Dr. Wang still insisted on requiring modifications, I should be glad to ascertain their exact nature, with a view to their examination by experts; and I concluded by emphasising the desirability of his confining any proposed modifications to matters of detail and keeping them to a minimum. I was myself due to leave Nanking for my tour up-river on the 7th June, and I offered to open negotiations either before I left or immediately after my return; and, in the meantime, I suggested to Dr. Wang that it would expedite matters if he cared to communicate to me forthwith a written list of the modifications which the Chinese Government desired to see introduced into the 1924 draft.

8. Although I had purposely stayed on at Nanking after the State funeral, i.e., from the 3rd June (when the other foreign representatives left) until the 7th June, in order to get on with these discussions, I heard nothing more of the matter until my return to Nanking from Hankow, when I met the Minister for Foreign Affairs by appointment on the 21st June, to resume our discussions regarding the rendition of Weihaiwei, and, I assumed, to receive and examine the proposed Chinese modifications to the 1924 draft. Dr. Wang, however, opened the interview by saying that he had a confidential statement to make of an important and, indeed, vital nature, as affecting the question now before us; in view of the Sino-British naval contract concluded on the previous day, the Ministry of the Navy had decided, with the approval of the Government, to embark on the construction of a modern fleet, and to convert Weihaiwei into China's principal naval base. In view of this decision, which altered the whole nature of the question, he did not think it would serve any useful purpose to enter upon a detailed discussion of the draft agreement of 1924, nor was he now any longer in a position to produce his list of modifications. He suggested, therefore, that I should telegraph this decision of the Chinese Government to London.

9. I at once reminded Dr. Wang that Mr. (now Lord) Balfour, in his note to Dr. Sze at Washington of the 3rd February, 1922, had specifically reserved the question of the continued use of Weihaiwei, after its retrocession to China, by the British fleet as a summer resort, and that my only authority for entering into the present negotiations lay in the instructions contained in Sir A. Chamberlain's telegram No. 28 of the 25th May, above referred to, and that my mandate was therefore strictly limited to the negotiation of a settlement on the basis of the 1924 agreement. Once we got away from that basis, I was in the air, and outside the terms of my instructions. We were prepared to implement the 1924 draft, and the fewer the modifications requested by the Chinese Government the sooner would a settlement be reached. Those were the terms of my instructions, beyond which I could not go. In reply to Dr. Wang's enquiry as to whether the new British Government had not modified these instructions, I answered in the negative.

10. The theory and argument now developed by the Minister for Foreign

Affairs were in brief that, the Chinese Government, having taken the sudden decision to build a modern fleet and make Weihaiwei their principal naval base, there was no room at Weihaiwei for both the British and Chinese fleets, and that, in view of this decision, which altered the whole nature of the proposed settlement, the 1924 draft was no longer suitable as a basis for negotiation. He had had his list of proposed modifications all ready to hand to me, but, in view of the altered circumstances arising from the sudden decision of his Government to make Weihaiwei a naval base, this list of modifications was now out of date, as, indeed, was any further discussion on the original basis. At this point Mr. Teichman observed that the negotiations of 1923-24 had throughout been conducted on the assumption that China would one day create a naval base at Weihaiwei, and that the 1924 draft agreement had been evolved after much discussion with that possibility specifically in view. An inconclusive argument on this point ensued. I enquired of Dr. Wang whether he really maintained that the use of Weihaiwei by the Chinese navy was now, or would for many years be, incompatible with its continued use as a sanatorium and summer resort by the British fleet, and I repeated that, in any case, I could not continue the discussion on any other basis than that of the assumption that there was no such incompatibility. Dr. Wang was non-committal in his reply, and it was finally agreed that the discussion should be postponed until the following day, and that in the meanwhile Dr. Wang would consult the Ministry of the Navy, with a view to deciding what modifications the Chinese Government would insist on, and whether or not it would be possible to continue the negotiations on the basis of the 1924 draft. I may add that on the preceding day, when I was discussing other matters with the Minister for Foreign Affairs, Dr. Wang had handed to me a slip containing the names of the Chinese experts he had nominated to negotiate the details of the revision of the 1924 draft—Dr. L. N. Chang, Admiral C. C. Hsü and Mr. K. L. Lou—a proceeding which lent colour to the Minister for Foreign Affairs' statement that his change of attitude was due to a last-moment decision on the part of his Government.

11. On the afternoon of the same day I was calling by appointment on President Chiang Kai-shek, and, while driving out to the President's villa alone with the Minister for Foreign Affairs, I took the opportunity of enquiring privately the real nature and cause of the hitch in these negotiations. Dr. Wang replied that Admiral Chen, the Vice-Minister of Navy (with whom both the Rear-Admiral, Yangtze, and I are on intimate terms, and with whom we negotiated the Sino-British naval contract concluded on the 20th June), was responsible for the trouble. He, Admiral Chen, had got it into his head that one could not have a naval base and a commercial port in the same place and that the 1924 agreement was, therefore, no longer applicable. Dr. Wang further suggested that it might help if Mr. Teichman saw Admiral Chen the same evening (i.e., before our discussion was resumed on the following day) and explained matters to him.

12. I accordingly arranged, immediately on our return from calling on the President, to get in touch with Admiral Chen, who kindly volunteered to

come round and see me the same evening at 8.30 p.m., instead of receiving Mr. Teichman. At the interview which followed I explained the position very frankly, and I suggested that there might be some misunderstanding on the point that one could not have a naval base and a commercial port in the same place, instancing the various naval establishments in the United Kingdom and British colonies, such as Portsmouth, Chatham, Devonport, Hong Kong, &c. It was also explained to the Admiral that, throughout the previous negotiations which had resulted in the draft agreement of 1924, it had been clearly contemplated that China might sooner or later wish to create a naval base at Weihaiwei, so that the position was unchanged in this respect; while, in any case, only the Island of Liukungtao and its anchorage would be required for the purpose, seeing that Port Edward on the mainland was a mere bathing resort, approached through shoal waters and inaccessible even to small coasting vessels, which had to anchor a long way from the shore. I once more emphasised the fact that I could only negotiate on the basis of the 1924 draft, and that if that basis were to be abandoned the present discussions would very probably have to be suspended. Admiral Chen was friendly, but non-committal; he denied that there had been any misunderstanding, and said that it was the intention of the Chinese Government to create a naval base at Weihaiwei and to include therein both the island and the mainland; and when the interview terminated, it was not possible to say whether my arguments had made any impression on him or not.

13. On the following morning I met the Minister for Foreign Affairs, as arranged, to resume our discussions. At this interview, as at our previous meetings on this question, the Minister for Foreign Affairs was accompanied by Mr. Hsu Mo, the head of the European and American Department of the Waichiaopu, and Mr. Tyau, Counsellor of the Waichiaopu, while I was accompanied by Mr. Teichman and Mr. Aveling. Dr. Wang opened the discussion by handing in his list of modifications, which he carefully explained was not his original list, but a new list, drawn up to meet the sudden decision of the Chinese Government to make Weihaiwei their principal naval base; this, as I was now for the first time definitely informed, involved the closing of the Port Edward area to foreign residence and trade. I proceeded to examine the list of modifications and saw at once that, apart from a few minor and unimportant alterations, the draft agreement had been completely emasculated by the deletion of all the articles dealing with the Port Edward area, and by the reduction of the loan of naval facilities to the British fleet to a period of three years without renewal, in the place of the ten years with qualified renewal provided for in article 23 of the original draft and the exchange of notes attached thereto. I accordingly informed Dr. Wang that it was useless to proceed to a discussion of these Chinese amendments, which amounted, in fact, to the complete destruction of the 1924 draft agreement, to which my mandate was limited. I also reminded him that his present attitude ran distinctly counter to what was laid down in the Balfour note of 1922, by which the whole thing was conditioned. Dr. Wang did not demur, but merely repeated that his list of amendments was based on the

assumption that the Port Edward area would be closed to foreign residence and trade. This terminated the interview so far as concerned any question of negotiation or discussion of his list of amendments, but a desultory conversation ensued on the questions of principle involved, namely, the terms of the loan of naval facilities and the reasonableness or otherwise of the Chinese contention that, as the mainland would be included in the naval base, the Port Edward area would have to be closed to foreign residence. On my side, I repeated all the arguments I had already used with Admiral Chen. Dr. Wang professed to be inclined, as a layman, to share my views on the latter point, the closing of the Port Edward area, which was, however, he was careful to add, a matter for the Chinese naval authorities to decide. But on the former point he claimed to be in entire agreement with his naval authorities in holding that, once Liukungtao had been developed as a Chinese naval base, there would be no room there for the British fleet, who would have three years in which to make other arrangements; there was, he maintained, no intention to exclude His Majesty's ships from Chinese ports, and he adduced in this connexion the usual arguments about the American fleet frequenting Chefoo without any special facilities. Leaving for the moment the question of the loan of naval facilities, I made some strong remarks about the proposed cancellation, under the Chinese amendments, of British and other titles to landed property, but Dr. Wang soon got out of his depth, confusing the crown leases on the island (which, under the draft agreement, could be redeemed by the Chinese Government with the consent of the lessees) and the freehold deeds on the mainland (which were to be exchanged for renewable Chinese deeds of lease); and I do not think that he realised that the logical outcome of the Chinese proposal to close the Port Edward area to foreign residence would be that the Chinese would have to buy out every property owner at full valuation.

14. The interview finally terminated with the understanding that Dr. Wang, while professing to share the views of his naval authorities on the subject of the loan of naval facilities and the eventual reservation of the Island of Liukungtao as a naval base for Chinese ships only, would see the Ministry of Navy and ascertain whether they would not modify their views in regard to the closing of the Port Edward area to foreign residence. I may add, with regard to the Chinese amendments, that on the original typed list as handed to me article 23 (concerning the loan of naval facilities) had been completely deleted, but this had been altered in ink to a redraft of the article reducing the period of loan to three years without renewal.

15. On the following day, the 23rd June, I was able to meet Admiral Chen again, and I took the opportunity of going fully and very informally over the whole ground once more in the light of my discussion with the Minister for Foreign Affairs the day before. I had, in the meantime, been giving careful consideration to the matter myself, and, while pointing out to the Admiral the unreasonableness of the Chinese proposal to close the Port Edward area and the impossibility of depriving British subjects of their rights in this arbitrary way, I took it upon myself to intimate, in regard to the period of

the loan of naval facilities, that I was prepared to take the risk of recommending to and even strongly pressing upon my Government a period of ten years without mention of renewal. The Admiral listened attentively, and, while neither demurring nor agreeing with my remarks, said he would communicate with Admiral Yang, the Minister of Navy, and see what could be done.

16. Two days later, on the 25th June, the Minister for Foreign Affairs summoned me to another meeting, for the purpose, I assumed, of continuing our discussion as the result of his consultation with the Minister of Navy. On my arrival at Dr. Wang's house, accompanied as usual by Messrs. Teichman and Aveling, I found the Minister for Foreign Affairs, supported as before by Messrs. Hsu Mo and Tyau, prepared to receive me at the usual conference table. But when we were seated, all the Minister for Foreign Affairs had to say was to enquire whether I had received any instructions on his previous proposals. I replied in the negative, and as the discussion was thus evidently brought to an end, I felt it only right to repeat to him once again the substance of Sir A. Chamberlain's telegram No. 28 of the 25th May to the effect that His Majesty's Government being now prepared to implement the 1924 agreement, the Chinese Government must bear the responsibility for any delay arising from modification thereof. This did not of course exclude the discussion of minor amendments, which I was quite ready to undertake. On this Dr. Wang's sole comment was that these were, he understood, the instructions of the late and not the present Secretary of State.

17. Meantime, I received on the 27th June your telegram No. 22 to Nanking³ intimating that instructions regarding Weihaiwei could not, in the circumstances, reach me before I left. Accordingly, at my final interview with the Minister for Foreign Affairs this morning, the 28th June, I reminded Dr. Wang that no progress had been made with this question owing to the fact that the Chinese proposals had taken us right away from the 1924 draft agreement, which was the only basis on which I was authorised to negotiate, and I pointed out that I had indeed every reason to understand, when I entered on these discussions with him at his urgent request, that he agreed that this draft was in fact to be the basis of our negotiations; and I again drew his attention to Mr. (now Lord) Balfour's note to Mr. Sze of the 3rd February, 1922, which clearly laid down, as conditions precedent to the retrocession of Weihaiwei, not only the grant of naval facilities for the health and recreation of the British fleet, but also the safeguarding of existing property rights, which the new Chinese proposals actually talked of cancelling. In the circumstances it was not surprising that His Majesty's Government should require time to study the new situation. To this Dr. Wang made no reply.

18. I would hazard the following interpretation to these somewhat peculiar manœuvres of the Minister for Foreign Affairs on this question of the retrocession of Weihaiwei. It was, I believe, originally the intention of the Chinese to put forward amendments to the draft agreement of 1924 which, while possibly altering considerably the appearance of that instru-

³ Not printed. See No. 58, note 1.

ment, would not have comprised any fundamental modifications, except in regard to the period and nature of the loan of naval facilities, which would doubtless have been considerably reduced in the Chinese proposed amendments. Before, however, the time came for presenting this list of modifications the news of the formation of the new Government arrived. The Chinese thereupon decided that, before continuing the negotiations for rendition of Weihaiwei on the basis of the 1924 draft agreement, it would be worth while ascertaining whether, with a new British Government in office, it might not be possible to secure the unconditional rendition of the territory, or at least some fundamental modification of the proposed terms of retrocession. Whether the conclusion of the naval contract on the 20th June was a mere pretext for, or a contributory cause of, this change of attitude is a relatively minor consideration. Probably there was a bit of both in its effects. In any case the result has been to reawaken the irredentist feeling which is always dormant in Chinese naval circles on the subject of Weihaiwei as the original home, and future base, of the Chinese navy.

19. With regard to the list of Chinese amendments, a copy of which is attached for convenience of reference,⁴ it scarcely seems worth while analysing them in detail, seeing that if the Chinese proposals were to be accepted there would be no need for an agreement on the lines of the 1924 draft, which would presumably have to be replaced by an instrument laying down the amount of compensation to be paid by the Chinese Government to the expropriated property owners, and the manner in which the considerable claims of the latter would be met. Apart from this general consideration, the Chinese amendments fall under three headings. Firstly, minor modifications such as those affecting articles 7, 9, 13, 16, 17, 18, 19 and 27, and the second exchange of notes and later attached documents; secondly, fundamental modifications arising out of the Chinese proposal to close the Port Edward area to foreign residence and trade, such as those affecting articles 12, 14, 15, 20, 21, 22, 24 and 28; and thirdly, fundamental modifications of the period and terms of the loan of naval facilities, such as those affecting articles 23, 25 and 26. In the event of the Chinese receding from their present attitude in regard to the closing of the Port Edward area to foreign residence, and agreement being reached on the question of principle in regard to the loan of naval facilities, I presume that His Majesty's Government would be prepared to accept considerable modification of form and omissions of unnecessary detail, such as would be involved in the acceptance of the amendments referred to under (1) above. For instance, I should not myself see any real objection to the alterations proposed to articles 7, 9, 13, 16, 17, 18 and 19, nor to the omission of the second exchange of notes, the instructions to the Customs and Posts, and the Commercial Port Regulations, which are in effect out of date in view of the attitude since adopted by the late Government towards this question of payment of Chinese municipal taxation—see our January offer of 1927.

20. In order that this despatch may constitute a complete record of the

⁴ Not printed.

negotiations outlined in it, I enclose for convenience of reference, copies of all the minutes of interviews mentioned therein.⁵ Of these, separate copies have been already forwarded individually as the discussions proceeded.

21. Whether the failure at the present time to bring this question to a final settlement will be to the ultimate good of either party I am inclined to doubt. Personally, I greatly regret it as an opportunity missed of getting one more contentious issue wiped off the slate. At the same time, looking back after the event, I do not see that any other result was possible in the light of Dr. Wang's attitude. My belief remains very strong that Dr. Wang was gambling on a reversal of policy consequent upon the change of Government at home; that in doing so he overlooked the fact that such questions necessarily take much time and careful preparation beforehand if they are to go through; and that it was not reasonable to expect any fundamental change in the agreed basis of settlement to be made at short notice. I was careful to explain to him that the discussions have only been suspended, and that when His Majesty's Government have had more time to give these developments full consideration it is probable that I shall receive further instructions as to the future handling of the matter; that, meantime, Mr. Aveling, who was present at all the interviews, is remaining in the south, and that if I have any subsequent communication to make in the name of His Majesty's Government I shall be doing so through him. Dr. Wang appeared fully to understand that the discussions should be regarded as suspended and not broken off.

I have, &c.,

MILES W. LAMPSON

⁵ Not printed.

CHAPTER II

Further correspondence with regard to the demands of the Chinese Government for (i) the abolition of extraterritorial rights in China; (ii) the rendition of Weihaiwei (July 2–November 7, 1929)

No. 61

Mr. A. Henderson to Sir M. Lampson (Weihaiwei)

Unnumbered Telegraphic [F 3173/24/10]

FOREIGN OFFICE, *July 2, 1929, 5.30 p.m.*

Your telegrams Nos. 101,¹ 105,² 112³ and 116⁴ (Weihaiwei).

I understand from your telegrams that Chinese Government refuse offer made at Washington in 1922, confirmed by the draft agreement negotiated at the time of Mr. MacDonald's Government in 1924 and renewed as soon as China was sufficiently united to be in a position to accept it in 1929. His Majesty's Government are therefore justified in withdrawing the offer and reverting to the position before it was made.

On the merits of the case I would be prepared to withdraw our offer but considerations of expediency must also be reckoned with. What would be probable effects of withdrawing our offer? Especially now that the Chinese are getting on better terms with Japan might it not result in Great Britain being made the object of agitation, boycotts, etc.? Would it imperil the satisfactory progress of our relations in China and involve our trade in losses greater than the value of the territory or the principle at stake? We are sure to be misrepresented as taking diehard attitude about extraterritoriality; will breaking off Weihaiwei negotiations add fuel to the fire?

Another possibility occurs to me. If we could get permanent possession of Kowloon Leased Territories⁵ which are of great strategic and economic importance to us, we could afford to give up Weihaiwei unconditionally. Presumably Chinese would want money payment for any such settlement and also sufficient territorial gains to be able to represent that China had gained not lost territory. To obtain Kowloon either outright or by lease in perpetuity we might offer (a) money payment and (b) Weihaiwei, together

¹ No. 47.

² No. 48.

³ Not printed. See No. 51, note 1.

⁴ No. 51.

⁵ i.e. the territories opposite to the island of Hong Kong leased to Great Britain for 99 years under the terms of the Peking Convention of June 1898: see *British and Foreign State Papers*, vol. 90, pp. 17–18.

with those tracts on the Burma frontier which have been disputed in the past. We could thus reach a settlement of questions which have been troublesome in the past and by sacrificing what is of less value to us obtain what is of the greatest value for the future of Hong Kong, at the same time providing Chinese Government with immediate and concrete advantages to set off against recovery of the Leased Territories seventy years hence, which is a remote and problematic gain.

Do you think comprehensive settlement on such lines would appeal to the Chinese? If so, have you any idea what would be minimum price which we should have to pay for permanent title to Kowloon Territories?

Before formulating any concrete proposals I must discuss question in conference with Colonial Office, India Office, and Admiralty, but first I should like to have your views.

No. 62

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 241 Telegraphic [F 3244/24/10]

FOREIGN OFFICE, *July 6, 1929, 3.30 p.m.*

Your telegram No. 121.¹

No cause for disappointment or regret.

You have secured naval training agreement. You have renewed contact with the Chinese Ministers. You have had opportunity for frank discussions with them, also with British communities and Chinese officials at Shanghai, Hankow, Changsha, etc. All this is useful work. I think your visit was a timely move and I thank you for the spirit in which it was undertaken and for the valuable results which I am confident have been obtained.

¹ No. 59.

No. 63

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received July 8, 12.15 p.m.)

No. 534 Telegraphic [F 3412/24/10]

PEKING, *July 8, 1929, 12.45 p.m.*

Your unnumbered telegram of July 2 to Weihaiwei.¹

To take latter part first.

I can only record conviction that Chinese would never listen to such a proposed bargain. Their whole policy is to regain whatever territory was once Chinese soil. For us to seek now to perpetuate or extend any existing

¹ No. 61.

alienation would be not only to invite a rebellion [*sic*] but to concentrate active attention on issues far better left dormant.

My advice is to handle Weihaiwei as a straight issue and not mix it up with others. And two essential questions seem (a) is maintenance of existing foreign property rights on the mainland essential? (b) how vital are naval facilities on the island to the well-being of our Far Eastern Squadron? The latter point in my opinion should be the deciding factor. I gathered from Commander-in-Chief at Weihaiwei that he regards these facilities as most important—see his telegram No. 764 to me.² As the Chinese have themselves proposed three years while I have already tentatively and non-committally suggested ten without renewal it should not be beyond the bounds of possibility to arrive at some solution.

As regards foreign property rights on the mainland their maintenance is hardly vital and if we cannot shake the Chinese from closing Port Edward we may have to agree but only on the clear understanding that we shall insist and really insist on their buying out the present property owner[s]. Commissioner³ states that sum involved would be substantial for Chinese would have to pay top price and this might cause them to hesitate. But we should begin by arguing against closing as pointless and retrogressive. Minister for Foreign Affairs professes to hold that view himself (he said so again privately the night I left) and it might swing his Government if I were authorised to intimate that my instructions regarding the opening of the port had received fresh endorsement.

To break off negotiations bluntly was not in my mind, it would probably lead to agitation etc. as suggested in your telegram. But if continuance of naval facilities is of sufficient importance (primarily a naval question) I doubt whether that should *necessarily* deter us: in any event decision might stand over until contingency arises. In passing it is axiomatic that each time we yield to such pressure the more potent the weapon becomes and the more frequent its use. In point of fact it seems premature to anticipate rupture of negotiations at the present stage. Chinese have made their proposals, it is for us to formulate our counter suggestions.

I submit as concrete suggestion that we now tell the Chinese that His Majesty's Government have thoroughly studied their proposals and that we can probably meet them over matters of minor importance which formed the bulk of articles in 1924 draft which they wish to modify (see in this connexion my despatch of June 28⁴). As regards two fundamental questions: (a) That as to closing Port Edward we first endeavour to dissuade them but if they insist say while we regard it as unnecessarily retrograde and in conflict with modern ideas we cannot if they really press it refuse but only on the clear understanding that all foreign vested property and other rights (government and private) must be bought out at full value *and paid for in cash before rendition*;

(b) That on question of naval facilities we are prepared to accept ten years

² Not printed.

³ i.e. Mr. Johnston, Commissioner of Weihaiwei.

⁴ No. 60.

without renewal provided that list annexed to present article 23 stands unmodified. We should then see how far we can progress in negotiation as regards length of time and nature and quantity of facilities.

One advantage of the above procedure would be that if the Chinese refused or haggled over grant of adequate compensation for (a) they place themselves *pro tanto* in the wrong and our position becomes stronger in the event of further delay in rendition.

Should the above receive your approval and should you be able to give me a decision on point[s] (a) and (b) I would suggest that I then be authorised to work out, as the next step, modifications and omissions in 1924 draft in co-operation with the Commander-in-Chief and Commissioner of Weihaiwei. I should thus be able to put forward for your consideration and *imprimatur* a counter draft for presentation to the Chinese. Commissioner agrees that 1924 draft contains much unnecessary detail regarding matter on mainland which might with advantage be deleted.

One further point. Whilst I do not advocate linking the questions we have a powerful lever in the coincidence that our indemnity proposals are now under discussion. Without coupling the two it would seem legitimate to let Minister for Foreign Affairs gather that if the Chinese oppose us over naval facilities at Weihaiwei which we regard as vitally important it is only human if it has a certain delaying effect on indemnity scheme to which they on their part perhaps attach even greater weight. This knowledge might be salutary.

Repeated to Nanking, Mr. Aveling, Commander-in-Chief for Weihaiwei No. 5.

No. 64

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 693 [F 3417/24/10]

FOREIGN OFFICE, *July 8, 1929*

Sir,

The Chinese Chargé d'Affaires called upon me this afternoon at the House of Commons.

In the course of conversation he referred to the negotiations in regard to the rendition of Weihaiwei, and said that his Government were unable to accept the conditions desired by His Majesty's Government as regards Port Edward (*sic*)¹ and the sanitary station in one of the islands, and expressed the hope His Majesty's Government would see their way to meet the Chinese point of view.

I told the Chargé d'Affaires that I had learned from His Majesty's Minister of the hitch which had occurred, and that I was now engaged in considering the situation which had been created. As soon as I had reached a conclusion

¹ In original.

as to further proposals to be submitted to the Chinese Government, I would ask him to call and see me again.

In response to an enquiry by the Chargé d'Affaires as to the attitude of His Majesty's present Government towards the Nationalist Government of China, I informed Dr. Wei Cheng-chen that my desire was to maintain and strengthen the friendly relations which now happily existed. Dr. Wei Cheng-chen thanked me warmly for this expression of opinion, which, he said, would be greatly appreciated by his Government.

I am, &c.,

A. HENDERSON

No. 65

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received July 12, 4.50 p.m.)

No. 559 Telegraphic [F 3521/64/10]

PEKING, July 12, 1929, 8.35 p.m.

Shanghai telegram No. 195.¹

In view of agitation we are likely to have to face over this case you may think it desirable to delete from our draft reply to Chinese extraterritoriality note either the whole of paragraph 6 or at least words from 'that some innocent person' down to 'accidental homicide'.

I should prefer to omit the whole paragraph which always seemed to me rather contentious.

¹ Not printed. This telegram referred to the Wiltshire case. A Chinese had died as the result of rough handling by men of the Wiltshire Regiment at Shanghai on May 19. A private was subsequently found guilty of manslaughter by a court-martial and sentenced to one year's imprisonment, and after some negotiation, the Chinese Government accepted the sum of \$5,000 as compensation for the victim's relatives.

No. 66

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received July 15, 2.30 p.m.)

No. 566 Telegraphic [F 3556/64/10]

PEKING, July 15, 1929, 4.20 p.m.

At the request of the Japanese Minister, he, the United States Minister, and I, met on July 12 to discuss extraterritoriality. The Japanese Minister leaves for Tokyo July 15 to consult his Government and the United States Minister goes on home leave July 22.

We agreed that intensive propaganda was now going on in favour of absolute and immediate abolition of extraterritoriality and both the Japanese and United States Ministers feared that unless prompt steps were taken we might find ourselves at any moment faced with unilateral denunciation by

China. I expressed the view that the most likely date was January 1, 1930 in view of the terms of the recent treaties with Belgium, Italy, etc.

It seemed to us that there were two stages that should be taken, namely, (a) Despatch as soon as possible of replies by the six Powers to the Chinese extraterritoriality note. But now we are held up by ignorance of the terms of the American reply. Unfortunately the United States Minister is still in ignorance of what the nature of the reply will be or how soon ready for delivery. As regards the British reply the Japanese Minister stated that he had some days ago telegraphed to Tokyo advocating immediate agreement to the memorandum handed to the Japanese Minister in London.¹ As he saw it Japan would be out of this question of answers to the Chinese note, not having received it. Speaking *personally* (he begged that this might be carefully noted throughout and that his confidence might be respected) he thought Japan might make her attitude against unconditional surrender clear 'round the table' during the forthcoming treaty negotiations. But he had still to learn his new Government's attitude.

(b) We felt second step should be the adoption of united front against any arbitrary or unilateral cancellation of extraterritoriality by China. So imminent might this danger be that it was for immediate consideration by our three Governments and if possible by France and the Netherlands as well whether a solemn verbal warning should not be given simultaneously at a moment to be agreed on beforehand to the Chinese representatives in the various capitals with hints of unpleasant consequences if this warning were ignored. In this connexion the United States Minister gave us the substance of his telegraphic recommendations to the State Department that America by threatening to withdraw her financial and moral goodwill might be able to apply effective pressure if all the others did the same and thus forestall any arbitrary act by China.² The Japanese Minister whilst all in favour of the proposed warning doubted on his information whether anything would deter the Chinese from the step they contemplate. His information regarding their intention was pretty definite.

It was left that the Japanese Minister as soon as he reached Tokyo would urge Baron Shidehara³ to agree to the policy of the united front and to participate in step (b) and that United States Minister and I would telegraph a similar recommendation to our Governments.

The Japanese Minister said that he had been racking his brains to think of some effective and practical means of pressure if the proposed warning failed but had not so far hit on any. He thought we should all apply our minds to that aspect. I confessed that having been faced with the same problem on more than one occasion before I knew of none beyond a general threat of forfeiture of goodwill, which in their present mood would probably leave the Chinese quite cold.

¹ No. 56.

² See *Foreign Relations of the United States 1929*, vol. ii, pp. 578-80.

³ Japanese Minister for Foreign Affairs in the Ministry of Mr. Hamaguchi which succeeded that of Baron Tanaka on July 2.

A record of the discussion⁴ goes in cypher via Siberia.

The French and Dutch legations now only wait on us and America to send in their replies to the Chinese note. In the circumstances I suggest enquiring at Washington as to the position in the hope that we may get all the replies in soon. Further delay seems undesirable but it is important we should all answer approximately at the same time.

Meanwhile you may feel disposed to have an exchange of views with Tokyo and Washington regarding the steps to be taken to forestall any unilateral denunciation of extraterritoriality by China and measures to be adopted if despite anything we may do China persists in unilateral cancellation in disregard of our rights.

Repeated to Tokyo and Mr. Aveling.

⁴ Not printed.

No. 67

Record by Sir V. Wellesley of a conversation with Mr. Atherton
[F 3602/64/10]

FOREIGN OFFICE, July 16, 1929

Mr. Ray Atherton, Councillor of the American Embassy called this morning and said he had received instructions from his Government to make certain enquiries arising out of Mr. Henderson's statement in the House on the 5th instant in regard to China.¹

He then produced and read to me a long telegram from his Government² the gist of which was as to whether or not the present Government contemplate a change of policy towards China especially as regards the question of extraterritoriality. There was a certain passage in Mr. Henderson's statement which had given the American Government the impression that we were dealing with the question of extraterritoriality in the negotiations now proceeding for a Commercial Treaty and that they were therefore anxious to know that we were not going faster in this matter than any of the other Powers.

I told Mr. Atherton that I could give him complete reassurance on this point. The Commercial Treaty was being negotiated as far as possible like any other commercial treaty between two completely independent Powers but in-as-much as extraterritoriality in China still existed it was necessary to safeguard the position by reference to that fact and that was all that the passages in Mr. Henderson's statement implied.

The Commercial Treaty did not deal with the subject of extraterritoriality as such. This subject was being dealt with in the first instance by the Diplomatic Body in Peking and Sir Miles Lampson was in the closest possible

¹ See Parl. Deb., 5th ser., H. of C., vol. 229, cols. 411-13.

² See *Foreign Relations of the United States 1929*, vol. ii, pp. 583-4.

touch with Mr. MacMurray so that the State Department need have no fear that we should attempt to steal a march upon them.

I then went on to explain what the present position was as regards the reply to be returned to [*sic* ? by] the various Governments on this subject.

Mr. Atherton seemed fairly satisfied with these explanations but once more put to me the question whether the present Government were likely to change our present policy by accelerating the pace. I told him that we were still guided by the principles laid down in our declaration of December 1926. This policy had met with the approval of both sides of the House and so far I had no reason to believe that any change was in contemplation, or any acceleration of the pace beyond what might be considered both safe and expedient. In any case he might rest assured that no steps of such importance as the surrender of extraterritoriality would be taken without consultation with the other Powers concerned. We were pledged to co-operation and we meant to abide by it.

I took this opportunity of telling Mr. Atherton how pleased I had been to renew my acquaintance with Mr. Hornbeck the head of the Far Eastern Section of the State Department and still more so to find, after a long conversation ranging over the whole field of our relations with China that there was not a single point of difference between us. I expressed the hope that before Mr. Hornbeck returned to the United States I might have another talk with him.³

V. W.

³ The gist of this conversation was reported to Sir E. Howard in Foreign Office despatch No. 1124 of July 27. See also *ibid.*, vol. ii, p. 592.

No. 68

Mr. A. Henderson to Sir E. Howard (Washington)

No. 332 Telegraphic [F 3556/64/10]

FOREIGN OFFICE, *July 18, 1929, 6.50 p.m.*

Your telegram No. 272¹ and Peking telegram No. 566.²

I agree that it is desirable that the replies of the six Powers should be sent in without further delay. You should endeavour to ascertain intentions of the Government to which you are accredited on this point and also whether substance of their proposed reply agrees generally with ours. You should also endeavour to ascertain their views on course to be adopted in the event of unilateral denunciation of extraterritoriality by China.

Repeated to Peking for Tokyo.

¹ No. 41.

² No. 66.

No. 69

Mr. A. Henderson to Sir J. Tilley (Tokyo)

No. 131 Telegraphic [F 3556/64/10]

FOREIGN OFFICE, *July 18, 1929, 7.0 p.m.*

Peking telegram No. 566.¹

It is clearly desirable that replies to Chinese note should be sent in without further delay. Please discuss matter with Foreign Minister and endeavour to ascertain views and intentions of Japanese Government.

Repeat to Peking.

¹ No. 66.

No. 70

Record by Sir V. Wellesley of a conversation with Mr. Matsudaira

[F 3556/64/10]

FOREIGN OFFICE, *July 18, 1929*

Having promised the Japanese Ambassador that we would not move in this matter until we had learnt the views of his Government on our proposed reply to the Chinese note, I asked His Excellency to call today in order to advise him of the latest developments in the situation.

I read the essential parts of this telegram¹ to His Excellency and told him that we were telegraphing to Tokyo and to Washington² in the sense recommended by Sir M. Lampson. His Excellency said that he could not understand why he had not yet received a reply to his telegram to his Government as the result of our last conversation. He fully realised that the matter had become one of some urgency and said that although he would again telegraph to his Government he thought it would now be best to leave it in the hands of Sir John Tilley and Baron Shidehara.

V. W.

¹ i.e. No. 66.

² See Nos. 68 and 69.

No. 71

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 257 Telegraphic [F 3521/64/10]

FOREIGN OFFICE, *July 20, 1929, 3.20 p.m.*

Your telegram No. 559.¹

In view of the fact that no British subject has been surrendered for trial before a Chinese court on a charge of homicide since 1784 and in view of decisive influence exercised by early homicide cases on the formal establishment of extraterritoriality in China, it would be difficult to omit all reference

¹ No. 65.

to such cases in a document which professes historical justification of extra-territoriality. Any refutation of the Chinese thesis that extraterritoriality was imposed by unequal treaties and in virtue of superior force must be contentious. I doubt therefore whether that is sufficient ground for omitting what appears to be an essential part of such refutation.

It would also be difficult to explain to the Powers to whom a copy of our draft reply has been communicated, our reasons for omitting paragraph 6, and if, as seems probable, the draft reply has already been read by the Chinese, the deletion of paragraph 6 at this stage might be regarded as a confession of weakness and so intensify our difficulties in dealing both with extraterritoriality and with the agitation over the Wiltshire case.

The undue leniency of the sentence in the Wiltshire case is unfortunate. The result is that the case, which really should support our contention that a British subject charged with homicide cannot be handed over to a Chinese court for trial, may also be quoted by the Chinese as showing that foreign courts fail to administer impartial justice. I suggest, however, that it might nevertheless be better to leave paragraph 6 as at present drafted, and to meet Chinese arguments by pointing out that the anomalies arising out of the multiplicity of courts and diversity of laws were fully recognised in the report of the Extraterritoriality Commission and must certainly be taken into consideration in their forthcoming negotiations for the modification of the present system of extraterritoriality.

Your telegram No. 566 just received,² appears to support the view that no further changes should be made in the draft reply at the present stage.

Repeat to Tokyo.

² No. 66 was circulated in the Far Eastern Department on July 16, the day on which the present telegram was drafted.

No. 72

Sir J. Tilley (Tokyo) to Mr. A. Henderson
(Received July 22, 12.55 p.m.)

No. 160 Telegraphic [F 3673/64/10]

TOKYO, July 22, 1929, 1.5 p.m.

Your telegram No. 131.¹

Baron Shidehara is still considering British note and is to discuss it with Mr. Yoshizawa here today.

I learn that former Cabinet did not entirely agree with our note or rather with what they took to be our view of opening up of China. They thought this should take place by degrees simultaneously with the progress of judicial reform. They intended to address a written warning to Chinese Government about premature denunciation of extraterritoriality at the same time as other Powers sent in their replies.

¹ No. 69.

Minister for Foreign Affairs is inclined to favour British view and to await abolition of extraterritoriality before tackling question of opening of country.

Minister for Foreign Affairs hopes to make a definite decision within two or three days.

Repeated to Peking.

No. 73

Sir E. Howard (Washington) to Mr. A. Henderson

(Received July 24, 9.0 a.m.)

No. 322 Telegraphic [F 3733/64/10]

WASHINGTON, July 23, 1929, 7.35 p.m.

Your telegrams Nos. 332¹ and 333.²

I informed Secretary of State this morning that you shared opinion of British and United States Ministers at Peking that it was very desirable that replies of the Powers to Chinese note regarding extraterritoriality should be no longer delayed and I enquired whether this was his view and also whether his proposed reply would be similar in substance to ours. He answered that his reply had been ready for some time past and that it was similar to ours in substance but that he had delayed proposing presentation of these replies because he wished first if possible to have some definite policy in case Chinese Government of their own accord denounced extraterritorialities. He had enquired of United States Minister whether he had any suggestion to make and had not yet had any reply which considering difficulty of problem did not surprise him. I asked if he did not think there was danger in delaying presentation further and he agreed saying he would take up the matter at once and let me know, he hoped in a few days. I said that perhaps when notes were presented it might cause Chinese Government to reflect twice before taking any rash step if United States and other Powers were to warn them that by violation of treaties they were alienating all their friends who were endeavouring to help them get on their feet.³ Secretary of State said he had been talking seriously to Chinese Minister on these lines in connexion with seizure of Chinese Eastern Railway. He went on to say that he almost welcomed strong stand Russia was taking in this connexion which had enabled him to point out to Chinese Minister the danger of rash action and violation of treaties. Though he did not actually say so he seemed to regard seizure of railway by Chinese Government as a sort of preliminary trial which if successful would lead them on to further measures of a similar nature. He hoped that serious representations made now to Chinese Government in this sense and hung on the peg so conveniently offered by Russia might not be without effect.⁴

¹ No. 68.

² Not printed. This telegram repeated Peking telegram No. 566 (No. 66).

³ For the preceding discussion see *Foreign Relations of the United States 1929*, vol. ii, p. 594.

⁴ For the question of the Chinese Eastern Railway at this time see Appendix I.

I may add that Chinese Minister whom I saw on July 21 evidently thinks something is preparing about extraterritoriality as he asked me several questions on the subject. I gave him entirely non-committal answers.

No. 74

Memorandum by Sir J. Pratt respecting Extraterritoriality and Unilateral Action

[F 3747/64/10]

FOREIGN OFFICE, July 24, 1929

The Chinese Government have, in various ways, made it clear that they aim at the complete abolition of extraterritoriality by January 1st, 1930. The modern codes will be completed and promulgated by that date and the recent treaties with Italy, Belgium and other Powers indicate that China expects to have secured the assent of the other Powers (for this purpose this means Great Britain, the United States, Japan and France) by that date. Hints however have been dropped that in any case China will proceed to abolish by unilateral action extraterritorial jurisdiction on that date.

Extraterritorial jurisdiction is exercised by the Powers in virtue of certain treaty articles, and no provision is made in these treaties either for the abrogation of the treaties or for the revision of the articles in question. Assuming therefore that Great Britain refused to recognise the legality of China's act, what is likely to be the course of events if each side claimed to exercise jurisdiction and attempted to prevent the other side from exercising jurisdiction over British nationals in China?

If extraterritoriality were abolished on the 1st January, 1930, some time must elapse before anything very much happened. As regards actions by British subjects against Chinese the Chinese courts would have jurisdiction and the procedure would be substantially the same whether extraterritoriality were abolished or not. In the converse case British subjects are seldom placed in circumstances necessitating their appearance before the Courts either as defendant or accused. In course of time, however, the Chinese authorities might endeavour to arrest a British subject to make him answer before a Chinese court some charge brought against him or they might endeavour to seize his property in satisfaction of a judgment against him given by a Chinese court. In such a case it would be incumbent on His Majesty's Government to protect the British subject—in the last resort by a display of force. Such a case could not arise in the International Settlement at Shanghai or in the foreign concessions such as exist at Tientsin, Canton and elsewhere. The vast majority of British subjects in China would not therefore be exposed to such a danger. On the other hand if a British subject were arrested or British property seized in some port or some place in the interior inaccessible to the ships of His Majesty's Navy it would probably be impracticable to do more

than register a protest. The abolition of extraterritoriality might therefore be made effective in the interior.

The extraterritorial courts would continue to function and it is difficult to see what steps the Chinese Government could take to stop them. Both foreigners and Chinese would continue to bring their cases against British subjects in the British courts. The claim of a Chinese court to exercise jurisdiction would probably only arise in concrete form when the Chinese police or other executive officer wished to proceed against a British subject.

There are other extraterritorial privileges which the Chinese might affect to regard as having ceased to exist. Chinese police might invade British premises for the purpose of domiciliary search, or for effecting an arrest. They might enter business premises, e.g. British banks, for the purpose of inspecting the books of the business on pretext of levying an income tax or enforcing the stamp duty. Chinese soldiers or police might board British vessels for similar purposes. Conduct of this sort might give rise to an immense amount of friction at dozens of places simultaneously all over China. It would be extremely difficult to check because no one case by itself would be sufficiently serious to justify the threat or use of force. If it continued unchecked however it would certainly result in collisions and violence with possibly serious consequences.

It is however extremely unlikely that the Chinese will proceed to extremes in any of the possible ways that have been examined above. They know that the principal Powers, Great Britain, the United States, Japan and France, will firmly refuse to permit the extraterritorial privileges of their nationals to be abrogated by unilateral action. The utmost that the Chinese are likely to do therefore is to issue some sort of mandate abolishing extraterritoriality and then, in the face of united protests, tacitly allow the *status quo* to be maintained and continue negotiations fortified by the gesture which they had made.

J. T. PRATT

No. 75

Record by Sir V. Wellesley of a conversation with M. de Fleuriau

[F 3790/64/10]

FOREIGN OFFICE, *July 25, 1929*

The French Ambassador called this morning and left with me the annexed memorandum¹ in regard to the reply of the Powers to the Chinese note on the subject of extraterritoriality. M. de Fleuriau said that the French Government had received a telegram from their Minister in Peking to the effect that he thought it was inadvisable, not to say rather dangerous, to allow this matter to drag on indefinitely and that the time had now come when a reply should be returned. I told His Excellency that we had received a telegram from Sir Miles Lampson to much the same effect,² and that we

¹ Not printed.

² See No. 66.

had, until the present moment, been waiting for reports from Washington and Tokyo as to the attitude of those Governments before returning our reply; that the American reply had now been received³ and was being examined and that we hoped to receive the Japanese reply in a day or two. We should then be in a position to act immediately.

V. W.

³ See No. 73.

No. 76

Sir J. Tilley (Tokyo) to Mr. A. Henderson (Received July 26, 5.55 p.m.)

No. 165 Telegraphic [F 3810/64/10]

TOKYO, July 26, 1929, 4.40 p.m.

My telegram No. 160.¹

Minister for Foreign Affairs still thinks our draft does not go far enough in holding out hopes of abandonment of extraterritorial rights and seems to imply indefinite continuance of treaty port system. I said our note might naturally be open to verbal criticism but we certainly did not mean to exclude hope of abandoning rights and that treaty port system was a corollary to maintenance of extraterritoriality (see your telegram No. 234 to Peking).² Baron Shidehara was convinced that Chinese themselves would make no proposals whatever except for cancellation of extraterritoriality on January 1. He asked about our commercial treaty and when I said our draft appeared to avoid question of extraterritoriality as far as possible, he said that no treaty would be any good to Chinese which did not cover that point.

Japanese Government were studying what offer they could make in their commercial treaty. He threw out as suggestions a time-limit such as was given in Japanese treaty revision but much shorter and right of evocation not to consular courts as in Siam but to certain places in China where there was a suitable Chinese [? Court]. I said position was quite different from that which obtained here where country was unified and there was real determination to carry out reforms.

One of the greatest dangers in China was from outside interference not only by generals but by public opinion.

Minister for Foreign Affairs agreed that this was a very important point although he rather seemed to have lost sight of it. I promised to let you know that he thought our draft was not definite enough in its offer.

Japanese themselves are not sending in a note but still apparently propose to make some sort of verbal representations. He said he concurred in necessity, as a separate step, of warning China seriously against abolition on January 1 when they themselves will not have had time to master their new laws.

Repeated to Peking.

¹ No. 72.

² No. 57.

No. 77

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 269 Telegraphic [F 3733/64/10]

FOREIGN OFFICE, *July 31, 1929, 12.35 p.m.*

My telegram No. 332 to Washington¹ and Washington telegram No. 322.²

I consider that reply should not be delayed any longer than necessary and that question of unilateral denunciation of extraterritoriality might well be considered after replies have been sent in. Please urge this course upon your United States and Japanese colleagues and inform them that you propose to send in the reply as amended in my telegram No. 235³ on a specified date, unless meanwhile you learn from either of them that their Governments have any definite objections to make or amendments to suggest.

Repeat to Tokyo; repeated to Washington No. 359.

¹ No. 68.

² No. 73.

³ No. 55.

No. 78

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 271 Telegraphic [F 3855/64/10]

FOREIGN OFFICE, *July 31, 1929, 12.45 p.m.*

My telegram No. 269.¹

French Ambassador informs me that his Government have in reply to a communication from the Japanese Ambassador in Paris intimated their desire to send in the proposed reply to the Chinese Extraterritoriality Note of April 27 without further delay.

At the same time the French Government desire to co-operate with the Japanese and other interested Governments in addressing an identic note to the Chinese Government on the lines advocated by the Japanese Government: viz. protesting in advance against any contemplated unilateral abolition of extraterritoriality by the Chinese Government before January 1 next. The French Government suggest that this note might emphasize the bad impression created by certain Chinese declarations in favour of unilateral abrogation of treaties and remind the Chinese Government of the obligation which today is placed on them as on other Powers to refrain from seeking solutions of outstanding questions by violent means, more especially when these questions are, like that of extraterritoriality, judicial in character, affecting the status of persons and goods.

I am inclined to doubt the wisdom of any such action especially at the present stage but should be glad if you would discuss this proposal with your interested colleagues in Peking and inform me whether in your opinion it would be wise to concert with them in drawing up for presentation to the Chinese Government a note on the lines indicated.

¹ No. 77.

You will no doubt also consider whether it is desirable in present circumstances that such a note should be identic in terms.

Repeat to Tokyo. Repeated to Paris No. 200 and Washington No. 362.

No. 79

Mr. A. Henderson to Sir J. Tilley (Tokyo)

No. 150 Telegraphic [F 3733/64/10]

FOREIGN OFFICE, *July 31, 1929, 3.40 p.m.*

Your telegrams Nos. 160¹ and 165² and my telegram No. 269 to Peking.³

The only point to be decided is whether our draft reply as amended after discussion with Japanese Ambassador (see my telegram No. 235 to Peking⁴) contains anything likely to prejudice any special Japanese interest in forthcoming Sino-Japanese negotiations. Please press for immediate reply and inform the Japanese Government that from our experience of dealing with the Chinese, it is a wiser policy to hold out lesser rather than greater hopes of meeting their wishes in official correspondence unless there is absolute certainty of being able to fulfil those hopes within a measurable time.

You should add that I am anxious not to delay my reply to the Chinese note any longer than is absolutely necessary, and I am therefore instructing His Majesty's Minister at Peking to inform his United States and Japanese colleagues that he will send it in on a specified date unless he learns meanwhile from either of them that their Governments have any definite objections to make or amendments to suggest.

The question of unilateral denunciation of extraterritoriality by the Chinese Government should, I think, be considered by the diplomatic corps in Peking after replies have been sent in.

Repeat to Peking. Repeated to Washington.

¹ No. 72.

² No. 76.

³ No. 77.

⁴ No. 55.

No. 80

Record by Sir V. Wellesley of a conversation with the Japanese Ambassador
[F 3983/64/10]

FOREIGN OFFICE, *July 31, 1929*

The Japanese Ambassador called this afternoon at my request, so that I might keep him informed as to the latest developments in regard to the extraterritoriality question, which I had promised to do. I told His Excellency that we had heard from Sir John Tilley that the Japanese Government were not altogether satisfied with our proposed reply and that they still thought that it was not sufficiently definite in its terms. The Japanese Government appeared to have thought that the tone of our reply should not

only be more conciliatory, but that we also ought to state a date when extraterritoriality would be definitely abolished. I told His Excellency that I thought it would be difficult to agree to that proposal but that we had sent instructions to Sir Miles Lampson to discuss the matter once more with his colleagues to see whether any agreement could be reached.¹ At the same time it was not a matter which could stand indefinite delay. We had already received a warning from Sir Miles Lampson, and the French Minister had reported to his Government in a similar strain, that a reply to the Chinese note was already overdue and that delay was dangerous. Therefore our reply would have to be given by a specified date. His Excellency thanked me for this communication.

His Excellency then stated that he had had a long conversation with M. de Fleuriau and that the latter had informed him, as indeed he had also informed us, that the Japanese Ambassador at Paris had suggested to M. Briand² that all the Powers concerned should join in uttering a warning to China that they would not tolerate a unilateral abolition of extraterritoriality. His Excellency was somewhat puzzled at this communication because he himself had received no instructions on the subject, nor did he think that it was entirely in accord with what he believed to be the views of the Japanese Government. He went on to say that as far as his information went, this proposal had emanated from the United States Minister in Peking, who had consulted his Japanese colleague. The latter had in turn informed the Japanese Government and it seemed to him that there must be some misunderstanding somewhere. In any case he did not think it was a very wise proposal. I told His Excellency that I entirely agreed. It seemed to us that if any such joint action was to be taken it would be extremely impolitic to do it unless and until the Chinese had definitely declared their intention to abolish extraterritoriality by January [*sic*] next. If and when that happened, it would be time enough for all the Powers to show a united front towards China and to stop her from any rash action. I told His Excellency that we had also instructed Sir Miles Lampson to discuss this proposal with his colleagues, but at the same time we had told him that it did not appeal to us. No reply would be sent to the French Government until Sir Miles Lampson reported further on the matter.

The Ambassador then turned to the Sino-Chinese [*sic* ? Sino-Soviet] dispute and he read to me a very long telegram which had been addressed by his Government to the Japanese Ambassador in Washington which had been communicated to the State Department in reply to their recent proposals.³ The purport of this communication was to the effect that the Japanese Government fully appreciated the benevolent intentions of the United States Government but that from all the information which they had received, both official and unofficial, the initiative of third parties and more especially any action by foreign Governments would be resented and resisted by both

¹ See No. 78.

² French Minister for Foreign Affairs.

³ This Japanese communication is printed in *Foreign Relations of the United States 1929*, vol. ii, pp. 259-60. See also Appendix I, paragraph 38.

parties. The proposal to instal a neutral manager of the Chinese Eastern Railway would be regarded as particularly objectionable by the Chinese. The Japanese Government therefore thought that if any such proposals as the Americans had contemplated were put forward and were rejected, the position would be an extremely embarrassing [*sic*] one for all the Powers concerned. The Japanese Government would therefore be glad to know what further steps the American Government had in contemplation should such a situation arise. Moreover, the most recent information which had reached the Japanese Government tended to show that both sides were now ready to negotiate directly. They had heard that the Russian Consul-General, who had recently left Harbin, was now returning to Manchuria where he was to meet the Commissioner of Foreign Affairs of the Nanking Government. In these circumstances the Japanese Government felt that the only wise policy was to allow these negotiations to proceed without any further interference from the Powers. I understood that Mr. Stimpson [*sic*] had replied that if this were the case, he entirely agreed and would take no further steps in the matter.

V. W.

No. 81

Sir J. Tilley (Tokyo) to Mr. A. Henderson (Received August 2, 3.55 p.m.)

No. 175 Telegraphic [F 3986/64/10]

TOKYO, August 2, 1929, 5.50 p.m.

Your telegram No. 150.¹

Minister for Foreign Affairs sees no reason that our proposed note should prejudice Japanese interests in their negotiations with Chinese and consequently will instruct Japanese Minister at Peking to raise no objections. Only criticism he made of our note was the same as reported in my telegram No. 165² viz. that it did not seem sufficiently encouraging and seemed to imply continuance of present system for another ten years or so which the Chinese would not listen to.

He repeated that idea contained in paragraph 3 of my telegram No. 165 and I gather he will suggest it in his negotiations with Chinese but he appeared to agree that at present there was hardly a suitable Chinese court anywhere. He repeated that he would follow line of Extraterritoriality Commission and expressed opinion that Powers should continue to urge Chinese Government to introduce necessary reforms and that there was no reason these should not be effected within two or three years at the outside.

I said to His Excellency that whatever offers he might make to Chinese they would presumably always be conditional and that therefore we should say the same thing though perhaps in different ways. He agreed.

¹ No. 79.

² No. 76.

His Excellency said that it would still take some time before he was ready to inform us of views of Japanese Government definitely.

Repeated to Peking and Washington.

No. 82

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received August 5, 9.0 a.m.)

No. 623 Telegraphic [F 4001/64/10]

PEKING, August 4, 1929, 10.55 p.m.

Your telegrams Nos. 269 and 271.¹

I have seen United States Minister and at his request have provisionally fixed August 12 for date of presentation of our note at Nanking. This will give him time for one more attempt to get his Government to synchronize despatch of their reply of which he still has hopes. Japanese Chargé d'Affaires confirms Tokyo telegram to Foreign Office No. 175² that Japanese Government raise no objection to despatch of our note.

I have asked the French and Netherlands Ministers if above date is agreeable to them for delivery of their notes and they have agreed. Japanese Chargé d'Affaires (Minister is still in Tokyo) has also been to Tokyo of . . .³ position.

As to second step see second paragraph of your telegram No. 271. United States Minister and I are both against any written warning which we consider would be tactical error and might be read by the Chinese as an indication that we were taking unilateral denunciation of extraterritoriality as a more serious possibility than they probably believe we do and therefore as one upon which they could with profit trade. But we both feel that a[n] avuncular lecture by respective Secretaries of State to Chinese representatives at the various capitals would be very desirable much more so than anything we could do here as it would carry far greater weight both owing to its greater authority and comparative rarity of such things and that to get full effect it should not be too long delayed after presentation of our replies to Chinese note of April 27. A good peg on which to hang such lecture might be various propagandist utterances of responsible Chinese statesmen such as Minister for Foreign Affairs, Sun Fo, etc., of which collection went to you in my despatch No. 1083 of July 24⁴ [? and] of which accounts have doubtless appeared in the English press.

As to whether language should be identic I do not feel that matters much so long as general purport is the same: the greater the impression of unity amongst the Powers the better.

Repeated to Tokyo and Mr. Aveling.

¹ Nos. 77 and 78.

³ The text is here uncertain.

² No. 81.

⁴ Not printed.

No. 83

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received August 6, 9.30 a.m.)
No. 629 Telegraphic [F 4037/24/10]

PEKING, August 6, 1929, 2.15 p.m.

Following for Sir V. Wellesley.
Weihaiwei.

From an aside dropped by Minister of Foreign Affairs during one of our talks at Nanking I got an indication that when negotiations are re-opened China may claim that there is a flaw in our title in that the original lease was only to run 'for so long a period as Port Arthur shall remain in occupation of Russia'.¹

I have never been clear how we should meet such argument if brought up or how, if brought before an arbitral court, we justify our continued occupation after Japan took Port Arthur. Can you enlighten me?

¹ See the Sino-British Convention signed at Peking on July 1, 1898, which is printed in *British and Foreign State Papers*, vol. 90, pp. 16-17.

No. 84

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 276 Telegraphic [F 4000/24/10]

FOREIGN OFFICE, August 7, 1929

Your telegram No. 534.¹

1. Climate of the British naval bases on the China station, Hong Kong and Singapore, during the summer months is extremely trying to northern Europeans. Present establishment at Weihaiwei, which allows the crews of war vessels to be landed for recuperation and recreation and also provides a small hospital in a healthy climate is therefore indispensable. I am not therefore prepared to adopt the suggestion that tenure of these facilities should be limited to ten years.

2. During the 1923 negotiations the Chinese suggested the provision of facilities elsewhere than at Weihaiwei (see paragraph 5 of enclosure 3 in Sir R. Macleay's despatch No. 326).² It might now be worth while exploring this suggestion. When you think a suitable occasion arises, you are authorised to present the following proposals to the Chinese Government:

(a) That they should provide the facilities conceded by the 1924 draft agreement at such other suitable place as may be agreed upon.

(b) That the cost of providing such facilities should be borne by the Chinese Government in return for the free cession of the British naval property at Liukungtao.

¹ No. 63.

² Not printed.

(c) That the British naval property at Liukungtao should be surrendered when these alternative facilities are ready.

3. The absolute essentials required by the Navy would be a sanatorium, hospital and recreational facilities, at a place where there is a convenient anchorage, but it is very desirable that the additional facilities conceded at Weihaiwei under the 1924 agreement should also be obtained if possible³ at a place where there is a convenient anchorage.

4. Unless an agreement can be reached on these lines, His Majesty's Government cannot depart from the provisions of the 1924 agreement for a ten year tenure with option of renewal.

5. It is not considered advisable that the question of the rendition of Weihaiwei should be discussed at the present time between the Commander-in-Chief, China, and a representative of the Chinese Navy.

6. On the other points raised, including the maintenance of foreign property rights or the payment of compensation for them, I am in general agreement with your views.

7. Apart from the knowledge that the use of Weihaiwei as a naval base has been traditional Chinese policy the Admiralty are unaware of any particular reason for its selection as such. Although this is of course a question for the Chinese Government to decide, it may be useful for you to have (to use or not as you may think fit) their expert opinion on the relative merits of Weihaiwei and Tsingtao for this purpose.

8. Strategically there would seem to be little to choose between these places, for while the former is nearer the Gulf of Pechili the latter is nearer Shanghai and the Yangtze.

9. As a defended base Weihaiwei is not a suitable harbour. The Eastern entrance being two miles wide, vessels lying in the anchorage south of Liukungtao would be entirely open to attack from that direction. As a defended base, Tsingtao would be far better.

10. As an anchorage Weihaiwei has only limited facilities. The depth of water in the most sheltered position precludes its use by heavy ships and the deep water in the Western entrance is exposed to north-easterly gales. At times during heavy southerly gales the usual anchorage becomes untenable and vessels have to weigh and proceed outside under shelter of Liukungtao or move under the lee of the mainland if their draught permits, whereas the anchorage at Tsingtao is capable of accommodating vessels of the largest size and has enclosed commercial and boat harbours.

Repeat [to] Commander-in-Chief.

³ The following nine words were retained in the text in error.

No. 85

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 280 Telegraphic [F 4037/24/10]

FOREIGN OFFICE, August 10, 1929

Following from Sir V. Wellesley.

Your telegram No. 629.¹

China, after raising the point in 1906 acquiesced in Great Britain retaining Weihaiwei; (see correspondence beginning with Foreign Office telegram to Sir J. Jordan No. 341 of October 3, 1906 and ending with Chinese Minister's note of January 7, 1907, Confidential Print (10427) of January 8, 1907) and since the Chinese Government have never since made use of the argument and in particular never even suggested it at the time of the Washington Conference or during the subsequent abortive negotiations but on the contrary were prepared to treat our offer to return the Territory as a concession on our part and an act of generosity, they must now be taken to be estopped from maintaining that we have been in wrongful possession for nearly twenty-five years.

I think this argument would carry considerable weight with an international tribunal.

¹ No. 83.

No. 86

Text of Note presented to Chinese Government by Sir M. Lampson on
August 10¹
[F 4527/64/10]

PEKING, August 10, 1929

Sir,

I have the honour to acknowledge the receipt of your note of the 27th April, in which you inform me of the desire of the National Government of the Republic of China that the restrictions imposed on the jurisdictional sovereignty of China by the system of extraterritoriality now in force should be removed at the earliest possible date, with a view to the assumption of jurisdiction by China over all nationals in her domain.

2. I have communicated the contents of your letter to my Government, and I am now instructed to transmit to you a reply in the following sense:—

3. Animated by the friendly feelings which they have always entertained towards the Government and people of China, His Majesty's Government have given their sympathetic consideration to the request of the Chinese Government relating to the abolition of extraterritorial jurisdiction in China. The high importance of this subject in its bearing both on the political development of China and the future relations between China and Great

¹ This text appears to be a copy made in the Foreign Office.

Britain appears to demand that it should be closely examined from every aspect. In particular, a just appreciation of the reasons for which, and the manner in which, the present system of extraterritoriality came into existence seems essential to a consideration of the proper method for dealing with the problem.

4. The system of extraterritoriality in force in China has its root deep down in the past. For thousands of years, before science had improved communications, the Chinese people were secluded from the rest of the world by deserts and the ocean, and they developed a civilisation and a polity peculiar to themselves. A wide gulf was thus fixed between Europe and America on the one hand and China on the other.

5. In particular, the conception of international relations as being the intercourse between equal and independent States—a conception which was woven into the very texture of the political ideas of the nations of the West—was entirely alien to Chinese modes of thought. When traders of the West first found their way to the coasts of China the Chinese Government found it difficult to allow them freely to enter into their country and mingle with their people, nor did they recognise that the nations to which they belonged were the equals of China. These traders were therefore confined to a small section of a single city in one corner of the Empire, and, while on the one hand they were subjected to many disabilities and to grave humiliations, on the other hand, by a species of amorphous and unregulated extraterritoriality, which was the natural outcome of these conditions, the responsibility of managing their own affairs and maintaining order amongst themselves was in some measure left to their own initiative.

6. Relations continued for many years upon this insecure and unsatisfactory footing. Friction was often dangerously intense and conflicts not infrequently arose, generally out of demands that some innocent person should be surrendered for execution to expiate, perhaps, an accidental homicide, or that foreign authority should assume the responsibility for enforcing the revenue laws of China.

7. The object of the first treaties was to secure recognition by China of Great Britain's equality with herself, and to define and regulate the extraterritorial status of British subjects. Relations between the two countries having thus been placed upon a footing of equality and mutual respect, Great Britain was content that her nationals should continue to bear those responsibilities and to labour under those disabilities which respect for the sovereignty of China entailed upon them. Conditions did not permit the general opening of the interior of China, and the residence of foreigners has consequently continued down to the present day to be restricted to a limited number of cities known as treaty ports.

8. His Majesty's Government recognise the defects and inconveniences of the system of consular jurisdiction to which the Government of China have on various occasions drawn attention. In 1902, in article 12 of the treaty of commerce between Great Britain and China, signed in that year, His Majesty's Government stated their readiness to relinquish their extraterri-

torial rights when they were satisfied that the state of Chinese laws, the arrangements for their administration, and other considerations warranted them in so doing. They have since watched with appreciation the progress which China has made in the assimilation of Western legal principles, to which reference is made in your note under reply, and they have observed with deep interest the facts set out and the recommendations made in the report of the Commission on Extraterritoriality in the year 1926.

9. More recently, in the declaration which they published in December 1926, and the proposals which they made to the Chinese authorities in January 1927, His Majesty's Government have given concrete evidence of their desire to meet in a spirit of friendship and sympathy the legitimate aspirations of the Chinese people. They have already travelled some distance along the road marked out in those documents, and they are willing to examine in collaboration with the Chinese Government the whole problem of extraterritorial jurisdiction, with a view to ascertaining what further steps in the same direction it may be possible to take at the present time.

10. His Majesty's Government would, however, observe that the promulgation of codes embodying Western legal principles represents only one portion of the task to be accomplished before it would be safe to abandon in their entirety the special arrangements which have hitherto regulated the residence of foreigners in China. In order that these reforms should become a living reality, it appears to His Majesty's Government to be necessary that Western legal principles should be understood and be found acceptable by the people at large no less than by their rulers, and that the courts which administer these laws should be free from interference and dictation at the hands not only of military chiefs, but of groups and associations, who either set up arbitrary and illegal tribunals of their own or attempt to use legal courts for the furtherance of political objects rather than for the administration of equal justice between Chinese and Chinese and between Chinese and foreigners. Not until these conditions are fulfilled in far greater measure than appears to be the case to-day will it be practicable for British merchants to reside, trade and own property throughout the territories of China with the same equality of freedom and safety as these privileges are accorded to Chinese merchants in Great Britain. Any agreement purporting to accord such privileges to British merchants would remain for some time to come a mere paper agreement, to which it would be impossible to give effect in practice. Any attempt prematurely to accord such privileges would not only be no benefit to British merchants, but might involve the Government and people of China in political and economic difficulties.

11. So long as these conditions subsist there appears to be no practicable alternative to maintaining, though, perhaps, in a modified form, the treaty port system that has served for nearly a century to regulate the intercourse between China and the British subjects within her domain. Some system of extraterritoriality is the natural corollary to the maintenance, even in modified form, of the treaty port system, and the problem as it presents itself to His Majesty's Government at the present moment is to discover what

further modifications in that system, beyond those already made and alluded to above, it would be desirable and practicable to effect.

12. His Majesty's Government await further proposals from the National Government as to the procedure now to be adopted for examining this question, and they instruct me to assure Your Excellency that they will continue to maintain towards any such proposals the same friendly and helpful attitude to which Your Excellency has paid so generous a tribute in the concluding paragraph of your note under reply.

I avail, &c.,

MILES W. LAMPSON

No. 87

Letter from Sir M. Lampson (Peitaiho) to Sir V. Wellesley

[F 4980/64/10]

PEITAIHO, August 11, 1929

The effect of several blowy wet days on end by the sea has been to give time to ruminate on pending questions and ponder a little on the one really big problem that will almost certainly confront us shortly, Extra[territoria]lity.

As you know on July 12 I had a long talk with MacMurray and Yoshizawa on this—the results of which I reported by telegram.¹ You will since have received my note of the interview.² Since then there have been signs of intensified propaganda—and in one press interview C. T. Wang is quoted as having committed himself to the definite statement that Extrality will go by January 1, 1930. In short everything points to this being the fixed determination of Nanking; both Yoshizawa and von Borch (the German) are convinced of it: and Wang Chung-hui said so in as many words to MacMurray at Nanking on June 4. The question which has been for some time in my mind is: What will the position be, if despite anything we or others may do or say in the meanwhile the Chinese take the bit between their teeth and abolish the thing unilaterally?

Now I know that it is often not only profitless to speculate in advance on such things but that it may even complicate rather than help in the long run. Nonetheless it may help to clear one's own mind if one tries to see where one's thoughts lead.

In the first place I am not particularly hopeful that we shall devise anything very effective to deter the Chinese from their object if so be they are really set on unilateral denunciation. Experience shows that arguments of reason or of international practice and good faith fall on deaf ears here. China has seen how successful Turkey was in much the same affair,³ and feels there is no reason why she should not be equally so. Like Turkey she banks on the fact that she knows her own mind and on the presumption that the

¹ No. 66.

² Not printed.

³ The reference is presumably to the recognition by the Powers of the abolition of the Capitulations in Turkey: see Article 28 of the Treaty of Lausanne of July 24, 1923 (*British and Foreign State Papers*, vol. 117, p. 550).

Powers don't; or that if they do, none of them are going to carry the thing to the extreme of forcible resistance [*sic*].

Suppose then, for the sake of argument, that China declares Extrality gone on January 1.

I imagine that the Powers would *riposte* with a notification that whatever China might say, Extrality still existed and could not go without their assent, so far as their nationals were concerned. Now what would that mean in practice? If no actual case arose of the arrest of a British subject, things might remain much as they are for some time. But that naturally leads to the question where and how could such cases of arrest arise? Probably in the interior or at one of those ports where there are no foreign concessions, though even the residents of the concessions would be liable to arrest outside in Chinese controlled territory. Things would probably drift on until either an arrest was made outside a concession or until, by general consent, the position was admitted to be so unsatisfactory that some sort of working arrangement was made to regularise it.

Now let me try and see in rather more detail just where this would land us. Cases *between British subjects* would still come before our Courts; and *criminal prosecutions of British subjects* ditto, so long as the accused was beyond the reach of Chinese jurisdiction. Similarly cases in which *British subjects were plaintiffs and the defendants foreigners* whose Governments had not surrendered extraterritoriality would still come before the Courts of the foreign defendants; *cases against Chinese defendants* would be on the same footing as they are now, i.e. they would be heard in the competent Chinese courts; and life would possibly continue to some extent much as at present in Shanghai and the bigger concession ports, e.g., Tientsin and Canton. In theory therefore we might all be much where we now stand. But there would almost certainly be continual friction. The Chinese, who might at first refrain from forcing an issue, would in the long run set about making the position more and more impossible; and there would be innumerable ways in which they could do this. Probably therefore *in the long run* we should agree to come into line with them—either on terms or not according to our readiness to show our teeth and the 'worth-whileness' of doing so.

If one analyses all this, what we should be really holding out for would be the right to retain

- (a) jurisdiction in civil cases as between our nationals *inter se*;
- (b) civil and criminal jurisdiction in the case of proceedings against British subjects on the part of Chinese or other foreigners;
- (c) foreign jurisdiction in cases where a British subject proceeds against a foreigner whose Government has not surrendered extraterritoriality. The latter class of cases are all the time getting fewer; we cannot in any case control them; and in not a few instances the British plaintiff would probably stand as good a chance of getting justice in a Chinese Court as in the Court of the foreigner concerned. As regards (a) we should doubtless if necessary follow in the last resort the example of the Germans and keep these cases out of Court by means of some kind of arbitration.

This narrows the issue down to (b), civil and criminal proceedings against British subjects, and here the main consideration is the continued immunity of the persons of British subjects and the interests of the big British firms, banks, shipping companies, and so on, from all the abuses to which we know Chinese jurisdiction gives full play.

Following up this train of thought, it seems to me therefore that we must consider the problem of our future attitude in the light of how these personal and financial and commercial interests can best be served in the long run, in the event of our being faced by the Chinese with a unilateral denunciation of extraterritoriality.

Will the position by then be too far gone to be fully restored by a resort to force in a general way? The answer, to my mind, will probably be in the affirmative.

Shall we be able to maintain for a time at any rate a sort of passive defence, accompanied where necessary and practicable by the local application of force for protective purposes? To this question I would also answer in the affirmative, adding however that we must expect much dangerous friction during this interim period.

The more one ponders over the problem the more desirable does it seem to anticipate any danger of the Chinese taking the bit between their teeth by initiating formal negotiations on the subject with them. But here we are faced with the difficulty that we have so far formulated no ideas, beyond the rather barren proposals contained in the Extraterritoriality Commission's Report, for such negotiations. You will remember that in May last I sent you a scheme of Oudendijk's⁴ with covering comment which must have reached you long since and in which I asked for guidance—and I devoutly hope I shall get it! for frankly we are, I fancy, all puzzled as to how best to handle this highly technical question and I feel more than usually chary of getting drawn into discussions on the subject with such nimble-witted and unscrupulous folk as our Chinese friends until I have received a clear lead from His Majesty's Government as to the line they propose to take in the matter.

I asked Teichman to let me have *his* views on what the position would be if the Chinese just took charge and did away with extraterritoriality by a stroke of the pen, and I enclose them in the form of some rough notes, which you may care to have. But please regard both these notes and this letter as unofficial. For at the back of my mind I have a lurking feeling that it would be wiser to leave this quasi-sleeping dog alone, and leave it to the Chinese to take the first step in the matter.

It would be of great help in a perplexing situation if I could have *your* views of the problem as it appears at the London end.⁵

Yours ever,

MILES W. LAMPSON

⁴ Enclosure 3 in No. 10.

⁵ Sir V. Wellesley replied in a letter of November 14, in which he referred to the instructions for Sir M. Lampson set forth in Nos. 115 and 116, and enclosed a copy of the memorandum by Sir J. Pratt printed as No. 74.

Notes by Mr. Teichman on the probable consequences of a unilateral denunciation of Extraterritoriality by the Chinese

August 7, 1929

The Chinese, having long since recovered the extraterritorial rights of Russians, Germans and Austrians, and having never granted such rights to the new European States which have come into existence since the War, have now concluded ambiguously worded Treaties with Belgium, Italy, Portugal [*sic*], Denmark and Spain under which they will almost certainly claim that the extraterritorial rights of the nationals of these Powers have lapsed from January 1st next.

2. The Japanese have agreed to enter into negotiations for comprehensive Treaty revision, including the question of extraterritoriality. They are evidently prepared to bargain on the subject; and it seems, from telegrams from Tokyo, that they contemplate the abolition of their extraterritorial rights within two or three years, subject to paper safeguards.

3. To the remaining Powers, whose Treaties have not yet come up for revision, China has addressed a Note expressing her desire for the abolition of extraterritoriality. To this Note the Powers concerned, Great Britain, the United States, France and Holland, are now replying in the general sense that the time has not yet come when they can safely give up their extraterritorial rights, but that they are prepared to consider in negotiation with the Chinese Government what further *interim* measures can be taken to that end.

4. Leading Chinese politicians have on more than one occasion of late declared publicly that extraterritoriality will be completely abolished by the end of the current year; and there is reason to suppose that the Chinese Government may contemplate its unilateral denunciation as from January 1st next.

5. The Chinese could probably find sufficient contractual justification in their own eyes for denouncing extraterritoriality in the case of those Powers whose Treaties, having fallen due for revision, have been or are in process of being replaced by new Agreements, including Japan. But it is difficult to see how they could justify such action in the case of the remaining Powers, including Great Britain, whose Treaties are not yet due for revision, the more so in that the Minister for Foreign Affairs has likewise on more than one occasion declared that his Government will secure the revision of existing Treaties by negotiation.

6. It is, however, evident that the Chinese, by a process of gradual erosion in getting their way with one Power after another, are undermining very seriously the whole structure of the foreigner's extraterritorial position, and that, however much we may dislike the idea, we may shortly have to face the future of extraterritoriality in China as a practical issue of immediate urgency.

7. What then will be the position if the Chinese Government unilaterally

abolish the extraterritorial rights of all the Powers on January 1st next? and what action can the Powers concerned take to protect the interests of their nationals in such an eventuality?

8. The most obvious reply would be an ultimatum that existing Treaty rights must be respected until modified or abandoned as the result of negotiation, followed if necessary by forcible sanctions in the form, say, of the occupation of Chinese ports and railways and the impounding of Chinese revenues. This line of action is not considered in these notes because its advantages and risks are self-evident and the arguments for and against it well known. But, profiting by our experience of the past few years, we do not want to put up a formidable looking bluff and then see it collapse when challenged by the Chinese.

9. If the Chinese Government denounce extraterritoriality on, say, January 1st next, and we and the other Powers concerned simply refuse to accept such denunciation or admit its validity, the position of British subjects in the foreign settlements and concessions at Shanghai, Canton, Tientsin and Hankow (excluding the former British concession at the latter port) would remain theoretically unchanged; and as no steps would have been taken to negotiate the rendition of these areas, there is no reason why their future should not continue, again in theory, to constitute a separate issue. Nor, as long as foreign troops remain at Shanghai and Tientsin, would the Chinese be likely to force that issue up to the point of the application of force. Indeed the continued existence of these settlements and concessions, and especially the International Settlement at Shanghai, constitutes a considerable flaw in the position of the Chinese from their point of view. At the same time it must be admitted that the Chinese, if they were sufficiently determined, could in practice make the position of the foreigners in the concessions and settlements very difficult by boycotts and economic blockades.

10. Outside these foreign controlled areas, i.e. in the interior and at every open port and mart except inside the concessions and settlements at Tientsin, Shanghai, Canton, Hankow and perhaps Kulangsu (Amoy), we should simply have to await an incident, which might be some time in materialising if British subjects were reasonably circumspect and were advised to comply as far as possible with Chinese regulations and to pay such taxes as were demanded of them.

11. The first incident would very likely occur, if not through the arrest of a British subject on a criminal charge, through Chinese officials entering the premises of a British firm to inspect the books or stocks in connection with some tax regulation, or through a British subject resisting Chinese taxation, or through some trumped up charge against a British subject, e.g. against a doctor for purposes of blackmail.

12. His Majesty's Government would then be faced with the necessity of deciding whether to resort to force, either generally, or locally if the incident happened in a place where such force was available, e.g. at a river port with one of His Majesty's Ships lying off the Bund.

13. Judging by previous experience the American Government would in

such circumstances merely file a legal protest and content themselves with writing Notes to the Chinese Government.

14. Unless His Majesty's Government were prepared to see the matter through (reference paragraph 8 above), they would probably decide to do likewise; but naval force, where available on the spot, would presumably still be used to protect life and personal liberty in cases where it could reasonably be employed with such a limited objective. The reoccupation of the Hankow British concession would very likely be one of the first questions to pose itself, on an incident occurring in the former British concession area there. Shipping on the river would in particular be a constant source of dangerous friction, but could at least be, comparatively speaking, easily protected.

15. This unsatisfactory and dangerous state of affairs would then continue until we agreed either to some formal compromise mutually acceptable or to the abandonment of our extraterritorial rights in a negotiated agreement.

16. In these circumstances we should probably be reduced ultimately to negotiating the best terms we could get, and it is possible that our principal lever in such negotiations might turn out to be the disposal of the remaining settlements and concessions. Other forms of indirect pressure, such as the withholding of Indemnity moneys, would be a double-edged weapon, always provided we were not prepared to consider an ultimate resort to force on a large scale, including the impounding of Customs revenues or at least their forcible protection. The practicability of an appeal to the League of Nations or the International Court of Justice would doubtless be considered, and might conceivably be of some use in delaying the forcing of the issue. But it must be borne in mind in this connection that, in view of the precedents already created in the cases of Belgium, Italy, Denmark, Portugal and Spain, our juridical position will be seriously impaired when our own Treaty falls due for revision (in accordance with the Chinese contention) in some three years time.

17. A fundamental point which cannot be answered in advance is whether the principal Powers concerned would or would not maintain a united front in presenting a more or less passive resistance to any Chinese attempt to abolish extraterritoriality unilaterally. If, for their own reasons, the Japanese gave way, it is doubtful whether we and the Americans would in the long run find it expedient to hold out. What the French or the Dutch did would be largely immaterial.

18. The conclusion reached therefore in this analysis of a hypothetical situation is that, if the Chinese unilaterally denounce the extraterritorial rights of all the Powers, and if the latter, whether jointly or individually, are not prepared to uphold the Treaty rights of their nationals by a resort to forcible sanctions, the position is likely in the end to go by default and the Chinese to 'get away with it'. Nevertheless I think we should undoubtedly, failing stronger measures, counter any such attempt to secure the unilateral abolition of extraterritoriality by refusing to admit its validity and simply sit

tight and await events, continuing to pursue the same policy as we at present follow in regard to the protection of the lives and liberties of British subjects, until we are able to seek by negotiation a solution of the problem on the best terms obtainable. If the question is asked, what shall we gain by this sort of passive resistance as compared with an immediate surrender, the answer is that, while it is a choice of evils, the latter is too humiliating an attitude to contemplate and that by holding out as best we can we are more likely to secure reasonable terms than by throwing our hand in from the start. Moreover, in view of the reply we are now sending to the Chinese Note, a complete surrender is out of the question; while in any case we *must* hold on to Shanghai for the present.

19. The most effective way of anticipating any danger of unilateral denunciation is to start some sort of negotiation going; and in this connection we have still to learn the views of the Foreign Office on the proposals for dealing with the abolition of extraterritoriality progressively on geographical lines, as outlined in Legation despatch No. 1 from Shanghai of May 15 last.¹ If the danger of unilateral denunciation is a real one, and if the resulting position is correctly forecast in these notes, there is a good deal to be said for shortening our front by abandoning, under such safeguards as may be obtainable in the way of evocation to particular courts and so on, our extraterritorial rights either in part or in whole in the interior if we can thereby secure their continuance for a few more years at the Treaty Ports, where incidentally we can also best afford our nationals the necessary protection.

20. As regards the prospects of the abolition of extraterritoriality considered in the abstract, the most immediately unpleasant consequences would be the disappearance of the position of racial superiority still enjoyed by the foreign resident in China (but not in Japan) as in colonial possessions throughout the East; the consequences most generally feared concern the subjection of the person of the foreigner to the mercies of Chinese courts and Chinese prisons (but it is possible that our fears in this respect are exaggerated seeing that British subjects in China belong almost exclusively to the commercial and professional classes, which do not normally come into conflict with the police and the criminal law of the land); and the most serious consequences are likely to arise out of the submission of the big commercial and financial interests of the British banks, firms, and shipping companies to the jurisdiction of Chinese officials and Chinese courts, with no protection but that which may be afforded by diplomatic representations to the Chinese Government and local Chinese authorities. Certainly if the Chinese are now to succeed, either next year or in two or three years time, in recovering jurisdictional rights over all foreigners residing in their country, it will not be because the state of the administration of their judicial system will have reached the necessary standard when anyone will be able conscientiously to recommend the abandonment of existing safeguards, but because the Powers concerned will not think it worth while from the point of view of general political expediency to secure the effective maintenance of these safeguards

¹ No. 10.

by a resort to forcible sanctions. And probably in the long run it will be better for British trade in China that they should not do so. Viewing the whole problem dispassionately, while the abolition of extraterritoriality will doubtless result in many disagreeable incidents and much friction, it is unlikely that the consequences will be so disastrous as is generally foreseen, provided the progress now being made towards stabilisation of government is maintained and the country does not relapse into civil war and political confusion. But it is to be hoped that, as in the case of Tariff Autonomy, we may be able to present a firm, if pur[e]ly defensive, front to any attempt to seize unilaterally what we may be prepared to grant in due course as the result of bilateral negotiation.

E. TEICHMAN

No. 88

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received August 18, 3.20 p.m.)

No. 672 Telegraphic [F 4270/64/10]

PEKING, August 18, 1929, 5.35 p.m.

My telegram No. 623¹ third paragraph.

Japanese Chargé d'Affaires on August 12 made following communications.

While Japanese Government still aim at a 'gradual but constructive abolition of extraterritoriality' they are anxious to 'combat any excessive action which might cause international disputes'. They therefore deem it opportune that Powers interested should unite in giving preventive warning to China before she can precipitate any such action.

They share views of United States Minister and myself—see my telegram under reference—as to manner in which that warning should be conveyed. They consider general line of such a warning should be previously agreed upon among Powers interested in order to preclude any conspicuous discrepancy in its general tone but they do not consider identic wording to be necessary. For their part they would propose to hold following language: (1) Japanese Government entertain deep sympathy for legitimate aspirations of National Government in connexion with question of extraterritoriality and intend to achieve its settlement by gradual constructive plan, (2) on the other hand their attention has been called to fact that certain responsible members of National Government have not infrequently expressed in public their intention of effecting entire abolition of extraterritoriality as from January 1, 1930, notwithstanding what may be the intention of interested foreign Powers. Should such expression of views really represent reasoned policy of National Government Japanese Government would be unable in any way to agree to it. (3) They would therefore warn China against any such unilateral action as it would indicate complete disregard of conditions

¹ No. 82.

governing present situation in China and would be a defiance of goodwill and sympathy of Japan and other Powers interested. They would also remind her of serious consequences which such a disturbance of her international relations might entail.

I have discussed this with American, Netherlands and French Ministers and our view is that if proposed communication which should be verbal could be made simultaneously at the various capitals so much the better: we agreed that whilst substantially general tenour should be the same each should speak on basis of particular experience that their government has had. We also feel there may be danger in being so specific as to the date as Japanese draft and that warning in more general terms would be wiser e.g. rumours are circulating, utterances of disquieting kind are being indulged in by Chinese statesmen that we therefore deem it well to warn Chinese Government through their representatives in respective capitals (each in our own words and way) against any precipitate step regarding extraterritoriality which could only have unfortunate results—see third paragraph of Japanese draft which strikes us as happily phrased. This step to be taken in London, Washington, Tokyo, Paris and The Hague on or about a date to be pre-arranged preferably during the last week of August.

Above views have been communicated to Japanese Minister. Netherlands Minister is requesting his Government to get in touch with you through Netherlands Minister in London so as to ensure co-ordination.

Repeated to Tokyo No. 97 and Mr. Aveling No. 206.

No. 89

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 292 Telegraphic [F 4270/64/10]

FOREIGN OFFICE, *August 23, 1929, 6.10 p.m.*

Your telegram No. 672.¹

I await your despatch No. 1083² before taking definite decision. Meanwhile I am inclined to doubt whether utterances by Chinese statesmen such as we are habitually accustomed to discount are worth so stern a rebuke. It might encourage Chinese to believe that threat of unilateral denunciation of extraterritoriality fills us with alarm and therefore can be used to put pressure on us in the forthcoming negotiations. It might even precipitate denunciation. Further, knowing that it is cardinal point in Japanese policy to represent to Chinese that their attitude about extraterritoriality is milder than that of other Powers, I am mistrustful of lead which they appear to be taking. They seem to be luring other Governments to give a severe warning which they themselves may repeat in a qualified form so as to point the contrast between our policy and theirs. In any case before decision I prefer to

¹ No. 88.

² Not printed. See No. 82, note 4.

await publication of our reply to Chinese Note and reception of C. T. Wang's further note.

Please telegraph observations.

Repeat to Tokyo.

No. 90

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received August 24, 9.30 a.m.)

No. 684 Telegraphic [F 4356/64/10]

PEKING, August 23, 1929¹

Minister for Foreign Affairs denies having authorised release of Chinese note of April 27 and says that publication must have been due to leakage. This is transparently untrue and shows the type of mentality with which we have to deal.

On Mr. Aveling referring to the inspired press comment, he rather half-heartedly disclaimed responsibility remarking that officially inspired press reports as to contents of American note had been given out by State Department before note had been delivered to him. He requested that publication of our note on August 23 be postponed as he was replying thereto and his answer would not be published except with our consent. His own view was that publication should not take place until correspondence had led to negotiations or a deadlock.

Somewhat similar messages have been received by American and French Ministers.

They, Netherlands Minister and I have today sent following reply. *Begins.* The British Minister has noted desire of Minister for Foreign Affairs that correspondence should not be made public until it should have led to some definite result. He himself would from the outset have preferred this mode of handling matter but original situation was altered by publication of Chinese note in an official press agency of National Government and was further changed by published comment of responsible officials of the National Government upon contents of replies made by representatives of Governments addressed.

In deference to the wish of Minister for Foreign Affairs, British Minister has withheld publication of his reply at the time contemplated and has referred question of publication to his Government which may well consider that under accepted practice the fact of appearance in public print of note presenting Chinese side of the case entitles them of itself to give publicity to their response thereto. *Ends.*

United States Minister (and less strongly French and Netherlands [Ministers]) still favours publication. I regard point as debateable. Though fully justified I still feel that there are arguments in favour of adhering to

¹ The time of despatch is not recorded.

normal etiquette. Chinese notes will be freely reproduced in vernacular press, ours will not. United States Minister, however, points out with some force that gist of forthcoming reply will most certainly be given out in some form whatever Minister for Foreign Affairs says. He asked whether if his Government decided to publish we should do likewise. I replied probably.

I await instructions.

Repeated to Mr. Aveling No. 217.

No. 91

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received August 28, 9.0 a.m.)

No. 698 Telegraphic [F 4434/64/10]

PEKING, August 26, 1929¹

Following received from Mr. Aveling No. 156 of August 21.

Confidential.

Having made representations to Minister for Foreign Affairs regarding publication of extraterritoriality correspondence (your telegram No. 211)² I led conversation on to various aspects of extraterritoriality question. Dr. Wang being in a very genial friendly and loquacious mood I chose suitable moment to ask him whether it was seriously the intention of Chinese Government to announce abolition of extraterritoriality as from January 1, 1930 adding that from various statements he and other responsible members of Government had recently made it would appear that this was the course they proposed to adopt. I had no authority to discuss matter and did so personally and quite unofficially but I thought it would be as well if I were to warn him that there would be no more certain method of alienating foreign goodwill and sympathy than to proceed in this manner. Moreover there would not be the slightest chance of such tactics achieving the object in view.

2. Dr. Wang after some hesitation said that if I strictly respected his confidence he also unofficially would lay all his cards on the table and explain frankly what his policy was and what he thought and hoped would be the policy of his Government. In the first place they had definitely decided to make determined attack on extraterritorial positions and January 1 had been fixed as date on which first line trenches should be occupied. He said if he could persuade Government to follow his suggestion there would be no cause for undue apprehension on the part of extraterritorial Powers. Since he had been Minister for Foreign Affairs he had refused to be party to unilateral³ treaty rights and his attitude in regard to extraterritoriality question would be consistent with this principle. He intended to put forward programme for gradual abolition of extraterritoriality which would be both reasonable and he hoped non-contentious. Exactly what first stage would be

¹ The time of despatch is not recorded.

² It has not been possible to trace a copy of this telegram in the Foreign Office archives.

³ It was suggested in the Foreign Office that the text here was incomplete.

he had not finally decided but it would probably follow the principle of unconditional abolition, whilst possibly distinction would be made between civil and criminal cases. Extraterritoriality in all areas outside treaty ports would have to be surrendered unconditionally; and in treaty ports all civil cases (and possibly criminal) would be tried in Chinese courts. In the event of appeal against decisions of courts of first instance, cases would come before special courts and be heard by foreign judges either alone or sitting jointly with Chinese judges. There could be no question of maintenance of present system of consular assessors, or, as in the case of Shanghai, Senior Consul's deputies. Assessors had not necessary qualifications even to administer laws of their own countries nor could they claim to be acting in the interest of justice since their object in attending court was solely to protect foreign plaintiffs or complainants regardless of right or wrong in respect of cases as shown by evidence.

3. Foreign judges who would sit in appeal courts and who would have to be men with thorough knowledge of law and practical experience would be employed directly under Chinese Government.

4. Dr. Wang said that the only Powers with whom he had to reckon were ourselves, United States and France—the rest even when put together did not count. On my observing that that remark could hardly apply to Japan he said Japanese attitude towards question of extraterritoriality was entirely different to that of United States and European countries and he had no doubt that he could come to terms with her.

5. Dr. Wang asked if I had any comments to offer. I said none except that I hoped he would continue to regard the matter in a practical and statesmanlike way and would succeed in persuading his Government to do likewise.

6. He again begged that I would not divulge the information he had given as premature knowledge of it might imperil his own position as well as prospects of getting proposals endorsed by his Government.

No. 92

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received August 30, 9.0 a.m.)

No. 700 Telegraphic [F 4446/64/10]

PEKING, August 27, 1929¹

Your telegram No. (? 205), (? 292).²

United States Minister has had a telegram from his Government that they do not wish 'to commit themselves to the proposal at present time'; he regards this as a postponement *sine die*.

I have informed him that His Majesty's Government have expressed some

¹ The time of despatch is not recorded.

² The reference is uncertain. Foreign Office telegrams Nos. 205 and 292 are printed as Nos. 12 and 89.

doubt as to the wisdom of proposal, that they are awaiting the arrival of press quotations of Chinese utterances etc., before coming to a decision and in any case will do nothing until our note of August 10 has been published and Minister for Foreign Affairs' reply thereto received. I am notifying other interested colleagues in the same sense.

Meanwhile Japanese Chargé d'Affaires had informed Mr. Ingram August 22 that his Government had no objection to suggested procedure reported in penultimate paragraph of my telegram No. 672³ provided that date proposed was generally acceptable.

There is undoubted force in the argument adduced in your telegram (see paragraph 3 of my telegram No. 623⁴). At the same time on the principle that prevention is usually better than cure, I do not myself see that any harm would be done by formal and serious verbal warning of authoritative character such as suggested against the forcing of the issue on extraterritoriality whilst it might do good. It largely depends upon how warning is framed and delivered. However I do not feel strongly one way or the other; my United States colleague remains most strongly in favour of it.

I have no means here of judging whether potential ulterior motives attributed to Japan in your telegram are well founded. So far as I can judge Japanese Minister had none at interview of July 12 at which the idea originated. Actual suggestion came from United States Minister and not Japanese and was evidently new to the latter who whilst favouring it (see paragraph 3 (b) of my telegram No. 566⁵) was sceptical as to its effectiveness.

I have hitherto refrained from comment on Mr. Aveling's telegram No. 156.⁶ But as the question is up and as your views may to some extent have been influenced by Wang's utterances, I suggest caution in attaching too much weight to them. Whilst most encouraging if sincere it would be most surprising if they were endorsed by Nanking Government, indeed if he is sincere it is just possible that a serious warning by foreign Governments such as that under discussion might strengthen his hand with his colleagues. Again we cannot ignore the possibility that he on his side may be seeking to drive a wedge between ourselves and America on the one hand and Japan on the other hand. Anything is possible in dealing with Orientals and everything is purely speculative.

Repeated to Mr. Aveling and Tokyo.

³ No. 88.

⁴ No. 82.

⁵ No. 66.

⁶ See No. 91.

No. 93

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 296 Telegraphic [F 4356/64/10]

FOREIGN OFFICE, August 28, 1929, 7.0 p.m.

Your telegram No. 684.¹

I suggest that you now inform Minister for Foreign Affairs that His

¹ No. 90.

Majesty's Government consider that the publicity given to the Chinese case fully entitles them to publish their reply: that they will refrain from doing so for the present out of deference to his wishes; but that they reserve the right to publish at any time without further reference to his Government should they consider that their interests are likely to be prejudiced by withholding publication any longer.

If after this communication any further tendentious statements are allowed to appear—of which I propose that you should be the judge—you should immediately publish our reply allowing time for simultaneous publication here but without giving time for Chinese to object and without necessarily arranging for simultaneous publication by your colleagues who should however be kept informed as far as possible. If United States Government publishes we should certainly publish likewise.

No. 94

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 867 [F 4209/250/10]

FOREIGN OFFICE, *September 3, 1929*

Sir,

With reference to your unnumbered despatch of the 7th June,¹ and to connected correspondence relating to the International Settlement at Shanghai, I transmit to you herewith copy of a memorandum which has been prepared in the Foreign Office on this subject, and request that you will give it your careful consideration and furnish me with your observations on it as soon as possible.

2. Subject to any observations you may have to offer, I would suggest that the conclusions set forth in the enclosed memorandum should be borne in mind for your guidance when the question of the Provisional Court comes up for discussion between the Chinese Government and the Diplomatic Body.

3. A further copy of the memorandum is enclosed for transmission to His Majesty's Consul-General at Shanghai.

I am, &c.,

ARTHUR HENDERSON

¹ No. 40.

ENCLOSURE IN No. 94

Memorandum respecting the Problem of Shanghai

FOREIGN OFFICE, *August 14, 1929*

There are three burning questions at Shanghai which, as Sir M. Lampson tells us in his despatch of the 7th June,¹ are continually boiling up, namely:—

The Provisional Court.

¹ No. 40.

Chinese representation.

Extra-Settlement roads.

These are all parts of what may be called the problem of Shanghai, which is essentially a problem of *municipal government*. The questions of the control of the harbour and of the Whangpoo Conservancy are questions of very great importance, but they are quite distinct from *municipal* questions, and can therefore be treated separately. The question of defence is, in some of its aspects, linked up with municipal questions, but it will lead to less confusion if it is considered separately.

2. The Shanghai problem—as above defined—has recently been the subject of intensive study, but none of the various suggestions, reports, proposed solutions, &c., that have been placed before us state clearly what exactly is the problem that we are trying to solve. It seems desirable that some attempt should be made to state the problem as a preliminary to examining the different solutions that have been proposed.

3. The government of the International Settlement at Shanghai is divided into an executive and a judiciary. The executive is represented by the Municipal Council, which derives its authority from the Land Regulations of 1869. In theory, the Municipal Council exercises an authority which is delegated to it by the Chinese Government, the instrument of delegation being the Land Regulations. But, in practice, owing to the extreme difficulty of making any change in the Land Regulations, the Municipal Council is, in fact, an independent autonomous body not subject to the control of any Government or any higher authority.

4. The judiciary consists of a number of courts set up by different Governments for the purpose of exercising jurisdiction over their respective nationals. As the foreigners in the Settlements number 30,000 and the Chinese one million, we may ignore for our present purpose the various Consular Courts exercising jurisdiction over foreigners and consider only the Chinese Court set up by the Chinese Government to exercise jurisdiction over the million Chinese. This was formerly known as the Mixed Court and is now called the Provisional Court. This Court derives its authority solely from the Chinese Government. The Municipal Council derives its authority from the Land Regulations. The executive and the judiciary thus each derive their authority from different sources, and there is no super-authority—standing above both these sources—to which appeal can be made to control and harmonize the actions of the executive and the judiciary. That is the problem of Shanghai, and when it is stated in these terms it will be readily perceived that there is, in fact, no solution of the problem. So long as the Settlement remains an international Settlement, there must inevitably be this division between the executive and the judiciary, and this division must inevitably be a fruitful source of conflict and friction. These conflicts cannot be composed by reference to higher authority, and therefore harmony between the executive and the judiciary—without which the government of the Settlement cannot be carried on—can only be attained by the exercise of tact and discretion and by goodwill on both sides.

5. There is one deduction of great importance to be drawn from these conclusions. Persons of great weight—such as Sir F. Whyte—have advocated that His Majesty's Government should negotiate a new agreement with the Chinese Government (presumably a new set of Land Regulations) and then stand ready to maintain the new arrangement by force if the Chinese do not abide by it. This policy rests on the false assumption that there is some static solution of the Shanghai problem. But if it is true—as appears to be the case—that as long as the Settlement remains an international Settlement there is no such solution, then Sir F. Whyte's proposal must fall to the ground.

6. Other proposed solutions are worth examining. The Municipal Council propose that the Mixed Court should become a Municipal Court. This is part of the scheme for making Shanghai a Free City under the military protection of the four Powers. This is no doubt a complete solution, for the division between executive and judiciary would disappear. As, however, it would involve the practical annexation of Shanghai, it is not a solution to which serious consideration can be given.

7. The Chinese solution of the problem is equally simple. They propose that the executive should be placed under Chinese control. This also would heal the division between executive and judiciary. No doubt rendition to Chinese control is the ultimate destiny of the International Settlement, but few would deny that the time has not yet arrived when such a solution can be regarded as being within the sphere of practical politics.

8. The proposals connected with the idea of a Greater Shanghai are somewhat more complicated. In addition to the International Settlement, there are in Shanghai various areas under Chinese control where municipalities have been developed, namely, Chapei, Paoshan, Pootung, Nantao, the Native City, &c. There is also the French Concession. Sir Sidney Barton first evolved the idea of a Greater Shanghai; Chinese members were to be admitted on to the Councils of the foreign areas and foreign members on to the Councils of the Chinese areas, while a consultative body was to deal with questions common to all areas. Such a scheme would conduce to closer co-operation in executive matters and would no doubt be productive of much good, but, as far as the International Settlement is concerned, it would leave untouched the fundamental problem of the division between executive and judiciary. The prospects of any such development do not appear to be good. The Chinese have adopted the idea, and all Chinese areas are now united under a Chinese Municipality of Greater Shanghai. But while the Chinese continue to demand increased representation on the Council of the International Settlement, they show no inclination whatever to admit foreign representatives on to the Chinese Councils.

9. In paragraphs 4 and 5 of his despatch of the 7th June Sir M. Lampson sets out what he calls the orthodox view as to the future of the International Settlement, namely, that rendition to Chinese control is to be a process of evolution, 'the gradual sinification of the Council and machinery of administration of the International Settlement by the progressive introduction of additional Chinese councillors and municipal employees until, with a Chinese

majority on the Council itself, control of the Settlement will automatically pass into Chinese hands.' Equally automatically, the International Settlement would then be absorbed by the Chinese Municipality of Greater Shanghai. Gradual sinification is no doubt an admirable method of removing friction and is an excellent preparation for rendition, but the idea that a Chinese majority on the Council would cause control to pass automatically into Chinese hands would appear to rest on a fallacy. Mr. Teichman has pointed out that an executive consisting of elected representatives is a purely Anglo-Saxon conception. Chinese simply could not work such a machine. If there were a Chinese majority on the Council the foreign minority would still exercise control, and if the foreign minority disappeared, leaving only Chinese, the machine would cease to work altogether. The only way in which the Chinese can ever control the International Settlement is by first abolishing the present Municipal Council (in its present form), and then by setting up in its place a Government bureau exercising executive functions. Not until this process has taken place will it be possible to amalgamate the International Settlement with Chinese Greater Shanghai. This seems to point to two conclusions: (1) That sinification of the machinery of administration is a better preparation for rendition than sinification of the Council; (2) that undue importance has been attached to increased Chinese representation. The ratepayers fear that a Chinese majority would be equivalent to rendition, and Sir M. Lampson considers the question of Chinese representation as even more important than the Provisional Court; whereas, in fact, additional Chinese councillors would make little real difference, and the Provisional Court is undoubtedly the crux of the whole problem.

10. The question of the municipal roads beyond the Settlement boundary is a subsidiary but none the less very serious and complicated question. Article VI of the Land Regulations of 1869 empowered the Council to purchase 'land leading or being out of the Settlement . . . for the purpose of converting the same into roads or public gardens'. Failure to secure Settlement extension has resulted in a great extension of extra-Settlement roads. Some of these roads are actually 10 miles beyond the Settlement boundary, and the Council have usurped powers by which these roads, though not the territory on either side of them, have practically become part of the Settlement. The difficulties to which this has given rise are summarised in paragraphs 18, 19 and 20 of Sir M. Lampson's despatch of the 7th June. The general lines on which a settlement might be reached (or, rather, a bargain struck) were suggested by Sir S. Barton, and embodied by him in a memorandum dated August 1928, but no serious negotiations on the subject have taken place since 1926.

11. The Provisional Court is the crux of the whole Shanghai problem. The foreign ratepayers have considerable difficulty in accepting the simple but inevitable fact that the Court which administers justice to Chinese citizens on Chinese soil must be a Chinese Court. From the earliest days they have persistently hankered after something else. The first great influx of Chinese into the Settlement took place in 1853, and for ten years no special

judicial arrangements were made for them. Early in the sixties there was another great influx, and Sir Harry Parkes, then Consul in Shanghai, succeeded in persuading the Chinese to establish a Chinese Court in the Settlement. The Municipal Council even at that time had been pressing the idea of a Free City and a Municipal Court, but Sir H. Parkes simply brushed it aside. This Chinese Court—the so-called Mixed Court—having been established, the foreign assessors who sat when a foreign interest was concerned proceeded gradually to usurp the powers of a co-judge. This went on until in 1911 the revolution took place, the Imperial authorities ran away, and the Municipal Council in some measure realised their dream of a Municipal Court. From 1911 to 1927 there existed the altogether anomalous system by which Chinese judges were appointed to the Mixed Court by the Consular Body and paid by the Municipal Council. This, of course, gave complete foreign control over the Court, but the Court was still in theory a Chinese Court. The complete foreign control caused grave discontent among Chinese litigants and residents in the Settlement, and, of course, aroused the furious opposition of the politicians. Under the lead of Sir S. Barton the Consular Body at Shanghai negotiated an agreement by which the Mixed Court was returned to the control of the Kiangsu Provincial Government, under a provisional agreement which came into force for three years on the 1st January, 1927. There was no central Government exercising authority over Shanghai. The rendition to the Provincial Government was therefore a provisional arrangement, and in article 7 the right of the central Government at any time to negotiate a final agreement was carefully reserved. In order still further to emphasise this aspect of the matter, the new Court established in place of the Mixed Court was styled the Provisional Court.

12. Under the new agreement practically all foreign encroachments on the powers and jurisdiction of the Chinese magistrate were swept away. An assessor sat in mixed cases where he was entitled by treaty to do so, and in criminal cases Consular deputies sat as 'watch dogs', but only in cases where the peace and order of the Settlement was concerned, and without power except to protest. The Provisional Court under the new agreement has been the scene of almost constant friction.

13. The foreigners have no particular fault to find with the Court itself or with the Chinese judges, who appear to be anxious to do justice according to their lights unless pressure is brought to bear upon them to do injustice. If, however, civil or military officials outside the Settlement wish to extort money from a wealthy resident of the Settlement (cf. Sheng Kung Pao case) or harry a political opponent (cf. Fu Siao En case), the Court, acting on their instructions, will issue an order without any form of legal procedure. The Dalbank (a Soviet institution) and the 'Hsin Hsün Pao' (a Chinese newspaper) were closed by court orders issued on the instructions of the Chinese Government. Similarly, it is said that labour bureaux outside will send in through the Court illegal administrative orders for execution in the Settlement, but no concrete examples of this particular abuse are given. There is evidence that occasionally in criminal cases civil and military officials outside

the Settlement will manipulate the course of justice in order to oppress their victims or shield their jackals. Government authorities are continually applying to the Court for the extradition of residents from the Settlement for trial in the native Courts on a variety of charges. It frequently happens that the judge will order the defendant to be handed over, while the Consular deputy will order the police not to obey the judge's order, the object being to prevent wealthy and respectable Chinese residents from being subjected to injustice and extortion by their own authorities.

14. There seems to be ample evidence that the Court is liable to be used for purposes of injustice and extortion, but there is little or no evidence—at any rate in the papers before us—that it is used to undermine the foreign administrative control over the Settlement. The view of the Municipal Council is that unless they protect the Chinese residents against such injustice and extortion they would lose all control over them and all prestige, therefore they must usurp control through the Municipal police; the Chinese are entitled to such protection in return for the municipal taxes they pay, and if they did not get it might refuse to pay taxes. It is difficult to reconcile this view with the attitude maintained by the Council for over sixty years in regard to Chinese representation and admission of Chinese to the parks. In any case, they would appear to have pushed their view too far. During his recent visit to Shanghai Sir M. Lampson was at pains to impress upon the foreign municipal authorities that the all-important thing was that crime should be punished; the police might refuse to execute illegal administrative orders passed down from the provincial authorities through the Court without legal process, but any orders resulting from legal process would have to be executed.

15. As regards the punishment of crime (which Sir M. Lampson regards as the all-important thing), no complaint is made against the Court except in regard to occasional miscarriages of justice arising out of the causes enumerated above. A serious situation has, however, arisen in consequence of article 2 of the Rendition Agreement, which provides that cases involving imprisonment for ten years or more, and cases involving the death penalty have to be referred to the Kiangsu Provincial Government for approval. In the fourteen months, the 1st January, 1927, to the 28th February, 1928, out of sixty death sentences only one has been confirmed. A direct consequence of this laxity is that during 1927 violent crime in the Settlement increased 320 per cent. During this period 123 persons were murdered, while fourteen police were killed and twenty-two wounded by armed criminals.

16. On the 8th May last the Waichiaopu exercised their option under article 7 of the Rendition Agreement and requested the Diplomatic Body to open negotiations with a view to making a 'proper arrangement', namely, 'a final settlement upholding our judicial rights and having regard to friendly relations'. On the 2nd August the senior Minister replied agreeing to negotiate and inviting concrete proposals.

17. Bearing in mind that the whole problem of Shanghai arises out of the fact that the executive and the judiciary draw their authority from different

sources, it is evident that the future of the International Settlement depends on the result of the forthcoming negotiations. If the Chinese are unreasonable, they could make any foreign administration of the Settlement impossible. On the other hand, if reasonable concessions are made on both sides, it may be possible to make arrangements under which the new court about to be established may be able to work harmoniously with the Municipal Council. The principle by which we should be guided in these negotiations has been stated by Sir Miles Lampson in the following terms:—

‘We are not concerned with the protection of Chinese interests from the jurisdiction of Chinese Courts, but rather in making such arrangements for the functioning of the Chinese Court in the Settlement as may be compatible with the maintenance of foreign municipal control.’

18. The system of Consular deputies instituted by the Rendition Agreement of 1926 appears to have been a failure. The function of the deputies is to act as watch-dogs and ‘record their objections’, if necessary, in the limited classes of criminal cases in which they have the right to sit. Mr. Vice-Consul Whitmore, who has had six years’ experience of the Mixed Court and Provisional Court, condemns the aggressiveness and the overbearing and high-handed methods of the deputies. Many of the protests filed by them are ‘very intemperate in their language, containing personal attacks on the ability or integrity of the judge’. Mr. Fessenden states that some of these protests (to which a provocative publicity had been given in the local foreign press) appeared to him to be wrong in law. Moreover, it seems that it is not the protests of the deputies that has prevented the perpetuation of injustice, but the action taken by the Municipal Council on their own initiative. It appears to be generally agreed that some other system of ‘watch-dogs’ will have to be devised, but it will not be possible to reach any decision on this point until it is known how far the Municipal Council accept Sir Miles Lampson’s dictum that ‘we are not concerned with the protection of Chinese interests from the jurisdiction of Chinese Courts’. It is submitted that the Council cannot accept it in its entirety. They have in the past gone much too far in the opposite direction, but they cannot now or in future stand aside while wealthy and respectable Chinese residents are subjected to injustice or extortion through the machinery of the Provisional Court. It seems certain that, whatever system of ‘watch-dogs’ is devised, cases will occur when the Municipal Council will refuse to allow the order of the Provisional Court to be carried out. The chief object, therefore, of any new arrangement now made should be to provide some means of resolving these conflicts between the executive and the judiciary. (This point, which seems to be the crux of the whole question, has not been raised in any of the reports or despatches from China.) Nothing could be more unsatisfactory or more dangerous than the present position, which results from the lack of any such machinery. Administrative interference with the Courts is a gross evil. The Council constantly complain of it, but as constantly resort to it themselves. The remedy would appear to be to arrange, if possible, that when the Council

object to any order of the Court being carried out the matter should be examined and decided by some form of arbitration which both sides should agree to accept as binding. If this could be arranged, it might be possible to leave the Chinese in practically unfettered control of the Court itself.

19. The Chinese will certainly reject all suggestions for increased foreign control over the present Court. So far as we have any indication of their intentions, they propose that the Chinese Court established in the Settlement shall not be a special Court, but an ordinary District Court, fitting into the Chinese judicial system. This seems an eminently reasonable proposal, but a serious difficulty will arise from the fact that the Chinese judicial system is based on the continental system of procurators. The Chinese are likely, therefore, to insist on the proposal put forward by them in 1926 'that all prosecutions in police and criminal cases shall be conducted solely by the procurator, and that the police shall not be empowered to present evidence directly to the Court'. ('Further Correspondence respecting China', Part XCVI, No. 60, Enclosure 5.)

20. The Municipal Council also object to appeals from the Chinese Court in the Settlement being taken to appeal Courts outside the Settlement, but no very convincing reasons for their objections have been brought forward. A dispute on this point has already arisen in connexion with the present Court, but has apparently simmered down. The Municipal Council now do not object to civil cases being appealed to an outside court, but in criminal cases want the appeal machinery to be kept within the Court. Mr. Whitmore, on the other hand, considers that questions of appeals to extra-Settlement Courts are matters of small moment.

21. It may be convenient to summarise the whole Shanghai question as expounded in the foregoing paragraphs in a few sentences:—

The Shanghai problem arises out of the fact that in the government of the International Settlement the executive and the judiciary draw their authority from different sources, and there is no super-authority to harmonise the executive and the judiciary when they come into conflict. So long as the Settlement remains an international Settlement there can be no final solution of this problem. The crux of the Shanghai problem is therefore the Provisional Court. Chinese representation and extra-Settlement roads are subsidiary problems, and the importance of the former has been exaggerated. Whatever new Chinese Court is set up in the Settlement as a result of the present negotiations and whatever safeguards in the form of 'watch-dogs', occasions will arise when the Municipal Council will refuse to carry out the orders of the Court. The main object of the present negotiations, therefore, should be to devise machinery by which such disputes can be referred for final decision to some other tribunal.

J. T. PRATT

No. 95

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 879 [F 4348/3745/10]

FOREIGN OFFICE, *September 6, 1929*

Sir,

I transmit to you, herewith, copy of a memorandum which has been prepared in the Foreign Office relative to the history of the China Consortium and to the policy to be followed by His Majesty's Government in the future with regard to that combination.

2. I should be glad if you would give the enclosed memorandum your careful consideration and furnish me with your observations thereon.

I am, &c.,

ARTHUR HENDERSON

ENCLOSURE IN No. 95

Memorandum respecting the China Consortium

FOREIGN OFFICE, *August 21, 1929*

After the defeat of China in the Sino-Japanese War of 1895 Russia and France embarked upon a policy of spoliation and aggression. Manchuria was marked out as a Russian sphere of influence in the north and the provinces bordering on Tonkin as a French sphere in the south. Railway concessions were obtained in each sphere and in the background loomed a project for a trunk line running north and south which, under Franco-Russian control, would facilitate the political domination of China.

2. Great Britain, the chief trading nation, the creator of the Maritime Customs Administration and the pioneer of railway construction occupied the predominant position in China. This position was openly assailed by Franco-Russian ambitions but was not adequately defended. His Majesty's Government tried to ride two horses at once. They aimed at maintaining the open door in China and equal opportunity for the trade of all nations, but at the same time tried to stake out a British sphere of influence—the Yangtze Valley—as an offset to the spheres staked out by Russia, France, Germany and Japan. Either expressly or tacitly Great Britain recognised the spheres of those countries and discouraged British nationals from embarking on enterprises in these areas, but this complaisance was not reciprocated. British railway enterprise in North China was gradually restricted and eventually completely stopped by Japanese and Russian objections, and in general the consequence of not resolutely opposing the policy of carving up China into spheres of influence was that British enterprise was excluded from the greater part of China, but was allowed the privilege of competing with other nationals in the British sphere. Political opposition could only be bought off by agreements to share with their rivals the profits of financial and industrial enterprises.

3. In 1895 the Franco-Russian combination was countered by an agreement between the Hongkong and Shanghai Bank and a group of German banks and finance houses in which they undertook to share equally in any business, loans or advances transacted with China.¹ Foreign interests were also admitted into British corporations. Thus the Hongkong and Shanghai Bank (at any rate up to 1914) always included a strong German element and in 1905 a British company—the Chinese Central Railways (Limited)—was formed with French and Belgian participation to exploit railways north of the Yangtze and south of Shantung. These developments may have done something to mitigate the violence of international rivalries in the fierce scramble for concessions during the period both before and after the Boxer uprising of 1900, but they operated to the disadvantage of Great Britain in various ways. The British claim to a sphere of influence in the Yangtze Valley was made to look a little ridiculous when the British Minister pressed for a railway concession in that region on behalf of a company like the Chinese Central Railways which was largely French and Belgian in composition. The Tientsin-Pukow Railway (the concession for which was secured in 1908 by the German group and Central Chinese Railways) was thus only in a minor degree a British enterprise and British interests were unable to make any real effort to secure the contract for the development of Pukow the terminal port of the railway on the Yangtze. This fell to the French, who were quite indifferent to the consideration that the Yangtze Valley was supposed to be a British sphere of interest. Moreover, these Consortium agreements from the earliest days offended the *amour-propre* of the Chinese. China intensely disliked seeing railway concessions granted to one corporation parcelled out among various other companies and groups without any reference to her own wishes in the matter.

4. The Anglo-German Banking Agreement of 1895 was renewed in 1905. In 1909 a French financial group joined the Anglo-German syndicate, signing a triple agreement to share in Chinese Government business of every kind on terms of complete equality.

5. During the year 1909 the question of the Hankow-Canton, Hankow-Szechuen and Manchurian Railways formed the subject of violent disputations. These were eventually composed by the entry of an American group into the Consortium. The first Hukuang Railways Agreement of 1909 with the British, French and German banks was superseded by the final agreement of the 20th May, 1911, with the four groups composing the Consortium.²

6. In the autumn of 1911 the revolution broke out, and almost immediately thereafter it became the accepted policy of the Powers that they must make a large loan to China in order to enable Yuan Shih-kai to consolidate

¹ *Note in original*: 'This at any rate prevented Russia driving us out of the Customs Administration as she drove us out of railway enterprise in the north. The first loan of £16 million secured on the customs revenues to pay the Japanese indemnity was a Franco-Russian loan guaranteed by the Russian Government. The two succeeding pre-Boxer loans of like amount were made by the Anglo-German combination.'

² For these agreements see John V. A. MacMurray, *op. cit.*, vol. i, pp. 866 f.

his Government and restore normal stable conditions. Negotiations were accordingly commenced with the Four-Power Consortium.

7. With the exception of the three pre-Boxer loans, the proceeds of which were applied to paying off the Japanese war indemnity, the loans hitherto made to China had all been in connexion with the economic development of the empire. They had been loans for industrial and mainly for railway purposes and the Consortium had been called into existence mainly because acute economic rivalries had dangerous repercussions in the political sphere. The Consortium, however, was now called on to handle a question of finance that had nothing to do with industry but was purely political in character. The object of the proposed loan was the stabilisation of the Government of China and the Governments of the lending Powers accordingly undertook to lay down the conditions on which the money was to be lent and the purposes to which it was to be applied: sources of revenue were to be placed under foreign control; foreign Administrations were to exercise the functions of the Chinese Government; Chinese armies were to be disbanded under foreign supervision and so on. Russia and Japan had no money to lend and accordingly had no place in a Consortium whose function was the economic development of China; but when it became a question of establishing a measure of political control over China these Powers could not be left out. Russian and Japanese groups were accordingly admitted into the Consortium by the Sextuple Agreement of June 1912.³ This immediately filled the Chinese with the deepest suspicion of the policy and aims of the Consortium. It now seemed clear to them that the Consortium was the instrument by which the Powers hoped to establish a political domination over China, economic development being either a pretence or a side issue.

8. Nevertheless, China was desperately eager to borrow money and foreign financiers were just as eager to lend. China, at that time, had a good reputation for meeting her obligations, and loans were therefore a profitable business. The financiers composing the Consortium were restrained from lending by their respective Governments until the conditions as regards foreign control over the security for the proposed loan and foreign control over the expenditure of the proceeds which those Governments wished to impose were complied with by China. The Governments also agreed that they would prevent, so far as lay in their power, loans of every description by groups outside the Consortium. Nothing was to be allowed to interfere with the success of the Reorganisation Loan. While the negotiations for the Reorganisation Loan dragged on, the Chinese, without very much difficulty, defeated this first attempt at a financial blockade and contracted loans, of varying amount but mostly on improvident terms, either with countries not parties to the Consortium (e.g., Belgium) or with Consortium nationals whose Governments failed to restrain them. During this period British industrialists constantly approached His Majesty's Government in regard to enterprises in China which had been offered to them on tempting terms, but which they were sternly forbidden to undertake. Thus Messrs. S. Pearson

³ Printed *ibid.*, vol. ii, pp. 1021 f.

and Son, who were not members of the British group, enquired whether they might accept a proposal to carry out certain public works in China in exchange for Chinese Government bonds charged upon the asset to be created. This was an exactly similar proposal to the Lung Hai Railway Concession referred to below. His Majesty's Government replied that they were not merely unable to approve but were obliged to disapprove of any undertaking of the kind contemplated. The British Consortium group itself was equally condemned to inactivity. The British and Chinese Corporation, for example, were precluded by the terms of the Sextuple Agreement from extending the Shanghai-Nanking Railway to take over control of the Nanking City Railway. The fetters thus placed upon British enterprise gave rise to widespread discontent and a growing volume of criticism against the policy of His Majesty's Government. The climax came when the Belgians, in October 1912, secured the concession for the Lung Hai Railway.

9. The Belgian concession came as a bomb-shell. Sir John Jordan had long chafed at the obstacles which international agreements had placed in the way of British enterprise. But, now, the representatives of the British group themselves discovered that, as regards railways and other industrial enterprises, there was something radically wrong with the Consortium policy. Experience, they said, had shown that as regards industrial loans the cumbersome arrangements for joint negotiations, rotation of engineers, participation in the supply of materials, deterred the Chinese from negotiating with the groups and interfered with the practical execution of industrial undertakings. In any case, the Chinese were determined to deal with industrial loans individually and not collectively. This view was strongly supported by Sir John Jordan, who urged that we should regain our freedom at the earliest possible moment. 'The groups, sextuple and quadruple alike, are useless as a machinery for dealing with railway loans, and all agreements contemplating joint industrial activity should be cancelled, leaving British and other groups complete freedom of action.' He realised that this might entail a scramble for railway concessions, but he considered this to be the lesser of two evils, and believed that free competition no longer had the terrors it once had.

10. The result was that a distinction was now drawn—apparently for the first time—between financial loans and industrial loans. The Reorganisation Loan (a financial loan) was duly signed with the Consortium groups in April 1913,⁴ and in the following September the groups agreed to eliminate industrial and railway loans from the scope of the sextuple agreement; the previous quadruple and triple agreements were determined forthwith, and henceforth industrial and railway loans were open to free competition by all the groups. It was contemplated that further issues of the Reorganisation Loan would be made, and the Consortium (now reduced to five Powers by the defection of America) remained in existence solely for the purpose of deciding the conditions as regards control, &c., to be attached to any future loans of a purely political character.

11. There is no doubt that the policy of which the Reorganisation Loan

⁴ See *ibid.*, vol. ii, pp. 1007 f.

was the fruit was a gigantic blunder. The revolution had not yet run its course, and the Powers were, in fact, trying to bolster up a Government which was not the Government desired by the Chinese people. In return for this assistance they believed that the Government in question would accept foreign tutelage. The Chinese fooled them all along the line. They borrowed large sums from sources outside the Consortium, and they wheedled large advances from the Consortium, both alike being eventually repaid out of the Reorganisation Loan. The experience of these advances showed that the idea of exercising any effective control over the expenditure of the funds was farcical. Before the Reorganisation Loan Agreement was signed Sir John Jordan pointed out that the whole of the 25 millions sterling had been squandered in advance, and that the idea of controlling expenditure was quite illusory. Nevertheless, His Majesty's Government continued to maintain the attitude that no loan to China should be approved unless the conditions provided proper guarantees for the payment of principal and interest and control over expenditure of the proceeds, in order to prevent the Chinese Government receiving money free from control.

12. The object of the Reorganisation Loan was the financial reconstruction of China. Its result was the exact contrary. Vast sums lent to China on improvident terms in the full knowledge that they would be squandered were repaid in full out of the proceeds of the loan, and this was the direct cause of the piling up of China's huge unsecured debt. Up to the Tariff Conference of 1925-26 these reckless lenders fondly believed that they would be paid off out of a new and larger Reorganisation Loan, the burden of which would fall on the merchants in the shape of enhanced duties on their trade.

13. The magnitude of the evil wrought by the Reorganisation Loan was obscured by the genius of Sir Richard Dane, who, contrary to all expectations, built up an efficient and productive Salt Administration. After his departure the magnificent structure which he had reared on a foundation of sand gradually collapsed. His Majesty's Government have now adopted a new policy, which was publicly announced in the memorandum of December 1926; they will no longer be a party to imposing foreign tutelage upon China. This must make it extremely doubtful whether the Consortium, as at present constituted, can ever be made the instrument of the financial reconstruction of China.

14. Nothing of all this was realised in 1913, when the Consortium, with political aims only, was allowed to continue in existence, or in 1920, when the Consortium, political and industrial, was reconstituted at the instance of America.⁵

15. The Reorganisation Loan of 1913 for £25 million was deemed to be the first issue of a larger loan of £60 million, the balance of which would be issued at some future date. The war supervened and Japan embarked on a policy of reckless loans to China (many of them in flagrant breach of Consortium obligations), the object of which was to secure political control over China. The notorious Nishihara loans belong to this period. It seems clear

⁵ See Introduction, note 30.

enough now that the only possible result of such a policy must be that Japan would burn her fingers, but this was certainly not clear at the time. Japanese aggression in Shantung, coupled with her unscrupulous politico-financial policy in China, aroused great uneasiness. The hands of Europe were tied, and there was a general feeling that only America could save the situation, and that she could only do so by rejoining the Consortium and thus exercising some check upon Japan. These views also found favour in America, and eventually, in 1918, when the war was drawing to a close, America, to the great satisfaction of Europe, though not of Japan, put forward proposals for the constitution of a new Consortium.

16. America's object was to secure the welfare and independence of China, and there were three great dangers that her policy was designed to guard against:—

- (1) That some Power like Japan, by an immoral use of finance, might obtain political control over China.
- (2) That the political independence of China and the legitimate interests of third Powers might be impaired by the assertion of spheres of influence.
- (3) That unrestrained competition for railway and other industrial concessions might lead the Powers to put political pressure upon China of a nature to impair her independence, and might lead to dangerous friction between the Powers themselves.

These dangers, it was thought, could only be guarded against by substituting for the sinister influence of Japan a financial tutelage directed in a spirit of altruism, by definitely abolishing spheres of influence and by substituting co-operation for competition in the economic development of China. It seemed that all these objects might be attained by reconstituting the Consortium for both classes of loans, financial and industrial.

17. These views appealed very strongly to His Majesty's Government, who also on general grounds welcomed the participation of America in international affairs. The American proposal was that all loans which had any governmental guarantees, whether for administrative or industrial purposes, should be conducted in common as group business. Up to this moment His Majesty's Government had been firmly resolved to adhere to their decision to retain the freedom as regards industrial loans which they had regained with so much difficulty in 1913. After some hesitation, they now decided to reverse this policy and to accept the American proposal. The new Consortium was accordingly reconstituted on this basis by an agreement signed in New York in October 1920.

18. His Majesty's Government were greatly concerned to avert the criticism levelled at them in 1912 and 1913 that they were supporting a monopoly in the shape of the British Consortium group to the exclusion of other financial and industrial houses well qualified to engage in Chinese business. They accordingly insisted that the British group should be enlarged so as to be more truly representative of British financial interests. In

fact, however, the strongest reason for the exclusion of industrial loans from the scope of the Consortium Agreement in 1913 was that the Consortium was useless as a machinery for dealing with railway loans and imposed an impossible handicap on British industrial enterprise. The evidence seems to show that this, though by far the most important aspect of the matter, was not taken adequately into consideration by His Majesty's Government when deciding to accede to the American proposal (see Foreign Office memorandum of the 21st February, 1919).

19. It is a much debated question whether the Consortium has or has not been a failure. It certainly performed a useful service in regard to spheres of influence; the abolition of which was completed at the Washington Conference. But in this respect the Consortium is *functus officio*.⁶ There is now no longer any possibility that spheres of interest will be revived. As regards administrative loans, it is claimed that the Consortium has performed a valuable service by maintaining a financial blockade, and so preventing China making [*sic*] improvident loans or loans that would touch her political independence. It is very doubtful whether this claim can be sustained. A Consortium for administrative loans has been in existence continuously since 1912, and it was this Consortium that made the Reorganisation Loan of 1913. As long as there were foreign financiers who thought there was a profit to be made, or foreign countries, like Japan, who believed there was a political advantage to be gained by making ruinous loans to China, the Consortium's blockade was utterly ineffective. The Consortium's own Reorganisation Loan itself was a long stride forward in China's rake's progress. Foreign loans ceased not because of the blockade, but because financiers of all nations, including Japan, at length realised that they would probably lose their money. Japan, besides having no more money to lend, also at length found that the political advantages her policy had been designed to secure were not in fact going to materialise. It seems highly probable, therefore, that the Consortium's blockade has been a purely imaginary one.

20. It is further claimed that the time must come when China, in order to consolidate her new Government, must apply to the foreign Powers for a big loan. It will then be the function of the Consortium to ensure the welfare of China by insisting upon adequate security and proper conditions as regards the purposes to which the funds are to be applied and the methods of applying them. It is perhaps natural that financiers should believe—as they have always believed—in the efficacy of a large loan as a sovereign panacea for all China's ills. It is, however, open to doubt whether at any stage in her political evolution which China is likely to reach in our generation the remedy which the financiers prescribe will not do more harm than good. A new Reorganisation Loan might well be as dismal a fiasco as the loan of 1913. But, apart from this consideration, it is difficult to imagine what conditions the Consortium can lay down which will be at the same time effective and acceptable to China. At the very least the Consortium will require that China shall show some political stability; that she will begin meeting ad-

⁶ i.e. discharged of its duty.

ministrative expenses out of revenue and not out of loans; and that she will show her determination to liquidate in good faith her past obligations. But when China has reached the stage when she is able to fulfil these conditions it seems probable that the unreality of the Consortium's blockade would become apparent. There would be a renewed eagerness to lend to China, and she would borrow money, perhaps on more improvident terms than would be approved by the Consortium, but free from the humiliation attaching to political control and group treatment. In 1912 this eagerness was at any rate partially held in check by the consideration that without the support of his own Government a financier would find it difficult to secure future recognition by China of a just claim. The support of a foreign Government is a consideration of much less importance today. And, finally, there seems very little prospect that China, apart from all other reasons, will ever consent to borrow money from a Consortium of which Japan is a member. She may be willing to raise a big loan in America or in England, or in both, but she will never have recourse to either as long as they insist that Japan, who has no money to lend, must, for political reasons, have a voice as regards the conditions to be imposed.

21. As regards industrial loans, the existence of the Consortium renders more difficult any participation in the economic development of China by those British interests specially organised with that end in view. Up to the present this has not been a serious matter because the economic development of China has been completely arrested by political chaos. We have now arrived at a period of comparative political stability, and there are signs that there may be considerable industrial activity in China in the near future. In 1912 the British Consortium group noted the determination of the Chinese to deal in industrial matters individually and not collectively. That determination is very much stronger today. 'Group treatment' has become almost as powerful a slogan as 'the unequal treaties'. We must therefore face the issue fairly and squarely whether we should not now return once more to the decision of September 1913 and eliminate loans for industrial purposes from the scope of our Consortium obligations.

22. In a memorandum dated the 1st September, 1924, Sir C. Addis⁷ states the consequences of a dissolution of the Consortium in the following terms:—

'Whatever theoretical objections there may be to the institution of the Consortium, they are, it is submitted, more than outweighed by a consideration of what would happen if it were dissolved. Can it be doubted that, if the check of the Consortium were removed, the same causes which operated so disastrously in the nineties would produce the same or similar results today? Indeed, the argument is strengthened by the growing weakness of the Chinese Government and the unhappy divisions of the provinces. Remove the Consortium and at once indiscriminate and profligate borrowing, which the Consortium has succeeded in holding in check,

⁷ Chairman of the London committee of the Hongkong and Shanghai Banking Corporation.

would revive, and put an end for ever to the financial reconstruction of China, which it is the special function of the Consortium to achieve. The battle of concessions would be resumed. Vested foreign interests would be created, and in case of default or aggression or unfair competition, it would become increasingly difficult for the Powers, acting separately, to refrain from recognising the interests claimed by their nationals and from interfering for their protection. Foreign interference, in that sense, would be tantamount, in fact if not in name, to a resumption of international spheres. The end for China would be foreign tutelage. She would have ceased to exist as a sovereign Power.'

23. Sir Charles Addis has somewhat overstated his case. But whatever justification there may have been for such a view in 1924, it is difficult to believe that the dangers he refers to are likely to materialise today. Conditions in China are far from being completely stabilised, and many dangerous possibilities lie ahead, but the Nanking Government has won recognition as the Central Government of China, not only from foreign Powers, but from all Chinese factions as well. Civil war has ceased, tariff autonomy has been granted, commercial treaties on a basis of reciprocity and equality are being negotiated, and considerable changes in the extraterritorial system are likely to be made in the near future. China is now more completely mistress in her own house than she has ever been since treaty relations with the West began, and from the point of view of our Consortium policy, it is important to note that this condition will continue to obtain whether a strong Central Government is established or whether, as some fear, China breaks up once more into regional Governments. In either event, the growth of national consciousness has been such that, in future, foreign commerce and industry will only be allowed to flourish in China on the basis of complete recognition of China's sovereign rights. Pressure exercised by a foreign Government to secure an economic advantage for their nationals is likely to have exactly the opposite effect to that intended.

24. The Consortium exists in order to prevent a scramble for loans and concessions in China. The view has been expressed above that, for the past dozen years, there has been no scramble because, owing to Chinese chaos, there has been nothing to scramble for. The time seems to be now approaching when there may be something to scramble for. If the Consortium remains in existence during this approaching period, will it be successful in preventing a scramble? If the Consortium comprised *all* the financiers who could possibly float a Chinese loan the answer would be, yes. But the Consortium does not fulfil this condition, even as regards the British group. This group consists of the following firms:—

Hongkong and Shanghai Banking Corporation.
Messrs. Baring Brothers and Co., Limited.
London County and Westminster and Parr's Bank, Limited.
Chartered Bank of India, Australia and China.
Messrs. J. Henry Schroeder and Co.

⁸Messrs. N. M. Rothschild and Co.

⁸British Trade Corporation.

There must be many other powerful firms and corporations willing and able to undertake financial or industrial business in China, and the same is almost certainly true both of America and France. There are also countries, such as Belgium and Germany, who are not parties to the Consortium Agreement. If a Belgian firm wished to execute a contract in China, it is improbable, other conditions being favourable, that finance would present a serious obstacle. If Belgian resources were inadequate, means could be devised for finding the money in Paris,⁹ possibly even in London.

25. The question of a loan to China may arise in two ways. There may be either a great reconstruction loan to deal with the floating and unsecured debt and designed to set China's finances in order once for all, or there may be proposals for smaller but yet substantial loans for specific purposes. The latter are much more likely to come first. Assuming that the Chinese Government wished to borrow money to build a railway or construct a harbour or any similar project, what sort of conditions would the Consortium wish to impose? In the old days they would have tried to stipulate for some measure of foreign control as a guarantee for the proper expenditure of the loan funds and for the due return of capital and interest. Nowadays, foreign control is out of the question. The Consortium could do no more than consider whether the terms offered by the Chinese Government afforded a reasonable prospect that the business, if undertaken, would yield a profit. But if the terms proposed were, in fact, of such a nature there would be many firms, both British and foreign, outside the Consortium who would be eager to secure the business. There would be a scramble—if that is the right word to apply to free competition—and the only effect of the existence of the Consortium would be that no member of a Consortium group would be able to engage in it. Chinese hostility to the Consortium is such that they would do their utmost to deal only with some outside firm. But even if they brought the business to the British Consortium group, the cumbersome arrangements which proved so serious a handicap in the period up to 1913 would probably operate to prevent the British firm securing the contract.

26. One final, but very serious, objection to the Consortium policy remains to be noticed. The profits accruing from the financial side of any business undertaken by the Consortium, such as commission, &c., are divided equally between the Consortium groups, but as regards the actual carrying out of the

⁸ *Note in original*: 'The last two were added in 1919 when Lord Curzon insisted that the British group should be enlarged "in such a manner as to render it sufficiently representative of the financial houses of good standing interested in loans to China to prevent criticism on the ground of exclusiveness". The British group threatened to withdraw if His Majesty's Government insisted on any further enlargement.'

⁹ *Note in original*: 'This suspicion has been confirmed by a remark made by the French Ambassador to Sir V. Wellesley today. It seems that the Banque de France is only awaiting the psychological moment to finance French enterprises in China regardless of the fact that the Banque de l'Indo-Chine is a member of the Consortium. J. T. P., August 21.'

industrial undertakings, the supply of materials is thrown open to open tender all over the world. When the new Consortium was formed it was explained that this arrangement enabled the British group to tender for the supply of the whole of the materials required instead of being restricted to a one-sixth share. Before the war the British did, in fact, secure the bulk of the orders for Consortium undertakings, but under present conditions it appears to be certain that, under the open tender system, funds supplied from British sources would be spent not in Great Britain but in Belgium and Germany. It must be assumed, however, that this is only a temporary condition, and that in time British industry will be able to compete successfully in the markets of the world.

27. The foregoing analysis of the situation appears to lead to the conclusion that it would be advantageous to British interests if the Consortium could be dissolved. It does not, however, necessarily follow that it would be wise for His Majesty's Government to take the initiative in the matter. What the effect upon France or Japan might be is probably not a matter over which His Majesty's Government need feel any great concern. As regards America, we shall probably have to face American industrial competition in China whether the Consortium is maintained or not, but any unilateral denunciation of the Consortium by His Majesty's Government, though it might be immensely popular with the Chinese, might have an adverse effect on Anglo-American relations generally. Moreover, the dissolution of the Consortium would lead the Chinese to believe that they had driven a wedge between the Powers, as they hoped but failed to do in the matter of extraterritoriality, and would encourage them to persist in the old Chinese game of playing off one Power against another. If we wish to get rid of the Consortium, it would therefore appear to be wise first to consult frankly with America on the whole subject.

28. The view has been expressed that if the Consortium is dissolved some other means should be found for maintaining international co-operation in China. As regards the normal progress of the economic development of China, it seems probable that no machinery of international co-operation could be devised which would, in fact, prevent competition. The existence of any such machinery would probably tie the hands of British industrialists, but not those of their international competitors. It would therefore be better to revert to a régime of free and open competition. As regards the major claims of the Consortium, different considerations arise. These aims are as follows:—

- (1) As regards finance, to rehabilitate China's finances by means of a large reconstruction loan and assist China with foreign expert advice to set up a sound system of financial administration.
- (2) As regards railways, to induce China to adopt a policy of unification in order to weld all existing and future railways into one national system under the control of a Central Railway Board.

For both these objects it is recognised that international co-operation—

including the co-operation of Chinese financiers—is essential. Possibly it is only in the distant future that either of these objects will come within the sphere of practical politics, but, in any case, the first step towards their realisation must, it seems, be the dissolution of the present Consortium. How international co-operation for these major objects can be brought about after the Consortium has disappeared must then become a subject for serious consideration. No concrete suggestions in regard to this have yet been made.

29. It remains to be noted that dissolution of the Consortium will not get rid of all our Consortium obligations. The Hukuang Railways Agreement of 1911, for example, is an agreement with the Consortium groups. The supply of materials for the completion of the Canton-Hankow Railway must be put up to open tender, and if any further loan is made the Consortium groups must share equally in the profits of any such operation.

J. T. PRATT

No. 96

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received September 7, 9.0 a.m.)

No. 724 Telegraphic [F 4613/64/10]

PEKING, September 7, 1929, 9.50 a.m.

Following from Nanking No. 166 September 6.

Addressed to Peking No. 166; repeated to Shanghai for Mr. Aveling.
Extraterritoriality.

Reply was handed to me¹ today for transmission to you. Minister for Foreign Affairs wishes to release it to the press September 12. I informed Low [? Lou] who brought it that you would probably object to publication before our reply, if any, were released and asked him to be emphatic on this point to Minister for Foreign Affairs, adding that in any case you would require time to consider the note and question of publication, which September 12 was too soon to allow.

The note comprises eight pages of double spacing and is couched in friendly and flattering terms e.g. 'the British conception of government has exercised, ever since the two countries were brought into contact, great influence upon China's political development, while the sense of justice and love of liberty, characteristic of British people, have always aroused admiration of the people of China. The Chinese Government is therefore particularly happy to note that His Britannic Majesty's Government have given their sympathetic consideration to desire of China expressed in my last note and declared their willingness to examine, in collaboration with Chinese Government, the whole problem of extraterritorial jurisdiction.'

It refers to the political wisdom of Great Britain in relinquishing extraterritoriality in Turkey 'with results' and to benefits which nations have

¹ Presumably Mr. Hewlett.

themselves derived which have relinquished extraterritoriality in China. For practical purposes note boils down to following sentence 'the Chinese Government now requests British Government to enter into immediate discussions with authorised representatives of Chinese Government for making necessary arrangements whereby extraterritoriality in China will be abolished to the mutual satisfaction of both Governments'.

Note is being sent by safe hands. If you require full text by telegraph please inform me.

No. 97

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 322 Telegraphic [F 4209/250/10]

FOREIGN OFFICE, *September 17, 1929, 6.30 p.m.*

My immediately preceding telegram No. 321.¹

We are especially anxious not to commit ourselves to a definite policy with regard to the future of the Provisional Court at Shanghai before a Foreign Office memorandum² representing our views on this subject has been considered by other interested departments and yourself. Copy was sent to you for observations last week and some time must elapse before you can furnish us with your considered views on it; we should consequently welcome some postponement of negotiations of a nature other than purely exploratory of Chinese *desiderata*.

In case however circumstances do not permit of indefinite postponement we are anxious that you should be aware of main conclusion of memorandum which is summarized as follows:—

'The Shanghai problem arises out of the fact that in the government of the International Settlement the executive and the judiciary draw their authority from different sources, and there is no super-authority to harmonise the executive and the judiciary when they come into conflict. So long as the Settlement remains an international Settlement there can be no final solution of this problem. The crux of the Shanghai problem is therefore the Provisional Court. Chinese representation and extra-Settlement roads are subsidiary problems, and the importance of the former has been exaggerated. Whatever new Chinese Court is set up in the Settlement as a result of the present negotiations and whatever are safeguards in the form of 'watch-dogs', occasions will arise when the Municipal Council will refuse to carry out the orders of the Court. The main object of the present negotiations, therefore, should be to devise machinery by which such disputes can be referred for final decision to some other tribunal.'

We should be glad to have your observations by telegraph on this suggestion which, pending receipt of views of other departments concerned, should be borne in mind in any active negotiations in which you may be obliged to take part either personally or by deputy.

¹ Not printed.

² Enclosure in No. 94.

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received October 15)

No. 1357 [F 5193/64/10]

PEKING, *September 18, 1929*

His Majesty's Minister, Peking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs, and transmits herewith translation of a note from the Waichiaopu of the 6th September respecting extraterritoriality.¹

ENCLOSURE IN No. 98

Waichiaopu to Sir M. Lampson

(Official translation by the Waichiaopu)

M. le Ministre,

NANKING, *September 6, 1929*

I have the honour to acknowledge the receipt of your Excellency's note of the 10th August,² in which you are good enough to transmit to me the views of your Government in regard to the request of the Chinese Government contained in my note of the 27th April for the removal of restrictions on China's jurisdictional sovereignty.

The Chinese Government is pleased to be reminded by His Britannic Majesty's Government that on several occasions they have given concrete evidence of their desire to meet in a spirit of friendship and sympathy the legitimate aspirations of the Chinese people. The friendly relations between China and Great Britain are based on something deeper than the mere identity of material interests. The British conception of government has exercised ever since the two countries were brought into contact great influence upon China's political development, while the sense of justice and love of liberty, characteristic of the British people, have always aroused the admiration of the people of China. The Chinese Government is therefore particularly happy to note that His Britannic Majesty's Government have given their sympathetic consideration to the desire of China expressed in my last note, and declared their willingness to examine, in collaboration with the Chinese Government, the whole problem of extraterritorial jurisdiction.

It has been noticed that in your note under acknowledgment considerable discussion is devoted to the historical background of the extraterritorial system as viewed by your Government. It is a matter at once for regret and consolation to the Chinese Government that especial mention has been made of the fact that during the early stages of China's relations with foreign Powers the traders of the West, 'by a species of amorphous and unregulated extraterritoriality', gradually took upon themselves the responsibility of

¹ A text of this note had been received in the Foreign Office in a corrupt form on September 26. The present text is filed only as Confidential Print.

² No. 86.

managing their own affairs. That such a state of things should have been allowed to exist is surely a matter for regret. On the other hand, we derive some satisfaction from the thought that, well aware of the circumstances under which British subjects obtained their special position in China, your Government must now fully realise the wisdom and necessity of a proper readjustment of the relationship between the two countries. We cherish the conviction that, faced with the realities of the present, your Government will remould the status of their subjects in China with the same courage and for the same expediency as they moulded it when faced with the realities of the past.

Extraterritoriality is only one of the things that took root, as your Excellency has put it, deep down in the past. No country is more anxious than China herself to do away with all those peculiar and antiquated systems, including the treaty port system, which, instead of serving any useful purposes, only tend to hamper the development of the material interests of Chinese and foreigners alike. The Chinese Government is as willing to accord to all foreigners the same rights as are usually enjoyed by foreign nationals in any other country as it is desirous of making them accept the same duties and obligations as are usually accepted by foreign nationals in any other country. And the paramount duty of the foreigner in any country, in the opinion of the Chinese Government, is to respect and obey its laws and to submit to the jurisdiction of its tribunals.

It must be emphasised that extraterritorial privileges, while apparently beneficial to foreigners in China in giving them the impression of security and safety, have really had the most injurious effect on their relations with the Chinese by producing in the latter the feeling of humiliation and the sense of resentment which have always caused mutual suspicion and the consequent loss of mutual confidence, thus undermining the very foundations of friendly relations and not infrequently giving rise to complications and conflicts. Such conflicts and complications could be easily avoided were there none of those special privileges. In this connexion it may be pointed out that towards nationals of certain countries who have lost their extraterritorial privileges and have submitted to the jurisdiction of China, the Chinese people entertain the most friendly feelings and repose in them great confidence—a valuable asset, it will be admitted, in the intercourse, commercial or otherwise, of any two peoples. Such marked difference in the relations between the Chinese and the nationals of extraterritorial Powers, on the one hand, and those between the Chinese and the nationals of non-extraterritorial Powers, on the other, will, as long as the system of extraterritoriality is retained, become more and more pronounced, and much as the Chinese Government may try to discountenance this difference of attitude on the part of its citizens, it will not be within its power to control the natural expression of their feelings.

In the event, however, of British subjects relinquishing their extraterritorial privileges, they may rest assured that they will enjoy the same confidence of the Chinese people and hence the same material benefit as the nationals of non-extraterritorial Powers. Moreover, the Chinese Government will con-

tinue to exercise, in accordance with the well-established principles of international law, due diligence in preventing any possible violations of the private rights of British subjects, and perform its duty in the fullest possible measure in all matters relating to the redress of wrongs.

Furthermore, it may be worth while to recall the circumstances under which the British Government renounced its rights under the Capitulations with Turkey. The Chinese judicial system, it will be admitted, does not suffer the least in comparison with that of Turkey at the time of the abolition of the Capitulations. And yet the British Government, realising that the Turkish people with legitimate aspirations and under the guidance of a new and strong Government could accomplish great things in a short space of time, had the wisdom and foresight to relinquish its special privileges, similar to those enjoyed hitherto by its nationals in China, and has had the satisfaction to find that the life and property of British subjects in Turkey have subsequently received full and adequate protection. The British Government, which did full justice to the Turkish people in the matter of jurisdiction without any apprehensions and with satisfactory results, will no doubt solve the problem of extraterritoriality in China in the same friendly and sympathetic spirit.

It has been, perhaps, brought to the knowledge of the British Government that the Chinese Government has recently concluded treaties with several other Powers which have agreed to relinquish extraterritorial privileges on the 1st January, 1930. If it had appeared to the Governments of those Powers, as it appears to the British Government, that there did not yet exist in this country a judiciary capable of rendering justice to their nationals and a body of laws adequate to give protection to their lives and property, they would certainly have refused to give up their privileged position and enter into the engagements they have made. Now that many of the Powers which participated in the discussions of extraterritoriality at the Washington Conference have already shown by an overt act that that system has outlived its usefulness and should be replaced by one in harmony with the actual state of things, there is no reason why the British Government, which played an important part in the deliberations of that conference, should not act in unison with those Powers, thus removing the difficulty which the Chinese Government might otherwise encounter in extending jurisdiction over all foreign nationals.

It is the hope of the Chinese Government that whatever misgivings and apprehensions the British Government may have in considering the subject under discussion will be now dispelled, and that, in the further examination of this subject, it will be actuated by much weightier considerations, namely, the enhancement of friendship between the Chinese and the British people, and hence the promotion of the material interests of both. It is with this last object in view that the Chinese Government now requests the British Government to enter into immediate discussions with the authorised representative of the Chinese Government for making the necessary arrangements whereby extraterritoriality in China will be abolished to the mutual satisfaction of both Governments.

I avail, &c.

No. 99

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received September 29, 3.0 p.m.)
No. 781 Telegraphic [F 4926/64/10]

PEKING, September 29, 1929, 7.50 p.m.

Interested Ministers meet on morning of October 2 to exchange views on Chinese extraterritoriality notes of September 6.¹

Is there any line you would wish me to try to get my colleagues to put before their Governments?

So far as I have any, my own views are that much in Chinese note could be easily refuted as being both specious and inaccurate; but that the thing now to do seems to be to take Chinese Government at their word and invite them specifically to communicate any proposals they may have failing careful preliminary study of which no useful purpose would be served by opening discussions.

Repeated to Tokyo.

¹ See No. 98.

No. 100

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 339 Telegraphic [F 4926/64/10]

FOREIGN OFFICE, September 30, 1929, 7.0 p.m.

Your telegram No. 781.¹

The line of His Majesty's Government's policy has been given in our note, which was fully discussed with other Governments concerned, and to which I have nothing to add at present.

I therefore agree with your last paragraph and approve action proposed by you.

¹ No. 99.

No. 101

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received October 11, 10.30 a.m.)
No. 805 Telegraphic [F 5129/64/10]

PEKING, October 11, 1929, 4.30 p.m.

Your telegram No. 339.¹

Six interested heads of Legation have unanimously decided to recommend to their Governments that replies should be returned to latest Chinese note *substantially* on lines of third paragraph of my telegram No. 781.²

¹ No. 100.

² No. 99.

French and Norwegian representatives may in addition recommend inclusion by their Governments of some reference to recent acts of violence in which their nationals have been concerned.

Shall I now prepare reply here, or will you as before send it to me for presentation?

We have agreed to endeavour to synchronize presentation of our replies. Repeated to Tokyo and Mr. Aveling.

No. 102

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 357 Telegraphic [F 5129/64/10]

FOREIGN OFFICE, *October 19, 1929, 3.40 p.m.*

Your telegram No. 805.¹

My immediately succeeding telegram² contains text of draft reply which if you concur you should present to Chinese Government.

The difficulty with which we are faced at this stage is that it may prove impossible to induce the Chinese Government to commit themselves beforehand in writing to any concrete proposal short of immediate total abolition. But if matters thus drift to a deadlock and we give the impression that we are merely manœuvring in order to avoid coming to grips with the question, the danger of a unilateral denunciation on January 1 next, already made more imminent by the present revolt against Nanking, would then become much greater. In our own interests we should make every endeavour to get serious negotiations started before that date. If you agree, have you any suggestions as to how this can be effected? Would it be possible to select some aspect of extraterritoriality as a starting point for discussions, or alternatively could Dr. Wang be persuaded to agree to the appointment of a joint committee to draft some scheme to serve as a basis of negotiations in the hope that these preliminary discussions may reveal the point[s] to which each side attach[es] importance and thus develop naturally into general negotiations on the whole subject?

If you think well of these suggestions you should discuss them with your colleagues and seek an opportunity of sounding Dr. Wang as to whether he sees any prospect of making progress on these lines or if not, whether he has any other practical suggestion to make.

¹ No. 101.

² No. 103.

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 358 Telegraphic [F 5129/64/10]

FOREIGN OFFICE, *October 19, 1929, 5.30 p.m.*

My immediately preceding telegram.¹

Following is text of draft reply:—

I have the honour to acknowledge receipt of your further note of September 6 on the subject of extraterritoriality² and I am now instructed to communicate to Your Excellency in reply the views of His Majesty's Government in the United Kingdom to the following effect:—

In the concluding paragraph of your note under reply the Chinese Government express their desire that His Majesty's Government may enter into discussions with them for the purpose of making the necessary arrangements whereby extraterritoriality in China may be abolished to the mutual satisfaction of both Governments. In my note of August 10³ His Majesty's Government expressed their readiness to negotiate modifications in the present system of extraterritoriality. There would therefore appear to be a large measure of agreement between the views of the two Governments upon this subject. It will be difficult, however, to make progress towards carrying their views into practical effect until the Chinese Government, as suggested in my note of August 10, have put forward concrete proposals to serve as a basis of negotiations. His Majesty's Government have not yet received any indication of the nature of the arrangements which the Chinese Government consider should be made, as intimated in the last paragraph of your note. The views of the Chinese Government on the subject are however a matter of vital concern to the Powers who are to take part in the proposed negotiations. The arrangements to be made will need most careful elaboration and it is on the measure of success with which this task is accomplished that must depend the nature and extent of the changes that can be made, to the satisfaction of both Governments, in the present system of extraterritoriality.

His Majesty's Government, in reiterating their willingness to enter into negotiations on this question, have thought it proper to put forward these considerations, not out of any desire to frustrate the wishes of the Chinese Government, but because, if the proposed negotiations are to pursue a fruitful course and lead to satisfactory results without undue delay, it seems clearly desirable that the proposals which will form their subject should first be submitted to careful preliminary study.

¹ No. 102.

² See No. 98.

³ No. 86.

Memorandum on Extraterritoriality in China by Sir J. Pratt

[F 5400/64/10]

FOREIGN OFFICE, October 22, 1929

There appear to be two ways in which the abolition of extraterritoriality in China may be effected:—

1. the geographical method, namely, the abolition of extraterritoriality in the interior while retaining it for a further undefined period at the Treaty Ports or at any rate the chief centres of trade such as Shanghai, Tientsin, Hankow, Canton and possibly other places;

2. the transfer of jurisdiction by subjects to Chinese Courts as and when efficient courts are established and satisfactory codes are promulgated.

The former method has been tentatively put forward by His Majesty's Legation in 1927, and similar proposals were recently put forward by the Netherlands Minister in Peking.¹ The essential features of the Dutch proposal are (a) total abolition of extraterritoriality in the interior and (b) the establishment of special Chinese Courts, with foreign judges on the bench, for the trial of mixed cases civil and criminal in the Treaty Ports. The geographical method of approach was considered in 1927 and was not regarded with favour. Further consideration tends to confirm our previous doubts. Though attractive at first sight, it seems to be one of those logical schemes which when put to the test will not work. Any attempt to seek a solution on geographical lines would be found in practice to be unsatisfactory both to foreigners and to Chinese. If Mr. Oudendijk's plan were put into operation and a British subject were to get into the clutches of the Chinese law in the interior we could not possibly agree that he should be dealt with by local District Magistrates according to old-fashioned methods. We should have to stipulate that the trial or the hearing of the case should take place in one of the Modern Courts administering the modern codes. These Courts exist only at the big Treaty Ports and in practice this would mean that the British subject would be brought down to the Treaty Port in order to have his case dealt with by the Chinese Court there, from the jurisdiction of which his fellow British subjects were entirely free. It is doubtful whether public opinion would stand such an anomaly as this.

A more serious objection still to this method is that it would do practically nothing to satisfy the Chinese or remove the present sources of friction. There are so few foreigners in the interior that the abolition of their extraterritorial rights would, except for rare cases at infrequent intervals, make no apparent or appreciable difference in the existing state of things.

What the Chinese want is that foreigners in China generally should come under the jurisdiction of the ordinary Chinese Courts—meaning thereby the modern courts administering the modern codes. They will object to the establishment of special courts as suggested by Mr. Oudendijk because that

¹ See Enclosure 3 in No. 10.

would be in a way as great a slur on the Chinese administration of justice—as great a mark of national inferiority as the system of extraterritoriality itself. (The chief cause of offence of the Shanghai Provisional Court in Chinese eyes is that it is a special Court.) We cannot satisfy the Chinese entirely—for nothing short of immediate total abolition will do that—but we can give them an instalment of what they want by agreeing that subject to certain safeguards foreigners generally shall come under the jurisdiction of the Chinese Courts in certain classes of cases, and by further agreeing that the area of these classes shall be progressively widened as experience shows that it may be safe to do so. We should then have to decide (*a*) the order in which jurisdiction should be surrendered and (*b*) the safeguards we must insist on to protect our nationals against the possibility of injustice. As regards the first point it is generally assumed that the order of surrender should be (1) civil cases (2) criminal cases and (3) personal status matters. This again is generally qualified by stipulations such as that suits between British subjects alone should continue to be heard in the British Court and that suits between two foreigners of different nationalities both enjoying extraterritorial rights should also come before the Court of the Defendant and not before the Chinese Courts. Similar stipulations are suggested as regards criminal cases. At first sight these stipulations appear to be reasonable enough but the objections to them do not appear to have received consideration. Such stipulations would perpetuate the diversity of laws and multiplicity of courts which is one of the most objectionable features of the present system of extraterritoriality. Moreover Great Britain and America are the only Powers that have made reasonably adequate provision for the administration of justice in China. A British subject who suffers a wrong at the hands of a national of almost any of the Continental Powers in practice finds it impossible to obtain redress. Even in Shanghai the situation in this respect is not much better than in the smaller Treaty Ports. If British subjects are to submit to the jurisdiction of Chinese Courts in particular classes of civil cases there is therefore much to be said for extending the jurisdiction of these Courts over all foreigners as regards the classes in question. We should be much more likely to secure in that way a really efficient Court. If this argument is valid it would probably prove advisable not to make an exception even in the case of suits between two British subjects. A British Court which continued to exist merely with such limited jurisdiction would be shorn of its prestige and importance. It would have little work to do and it would be difficult to find able men to hold the post. On the other hand if the jurisdiction of the Chinese Court were made as wide as possible it would increase the chance of obtaining an efficient court and of securing adequate safeguards.

Whether all civil cases could be transferred to a Chinese Court or whether a beginning would have to be made with a restricted class of civil cases must depend upon whether satisfactory Chinese codes covering all classes of civil cases have actually been brought into operation. It must also depend on the nature of the safeguards which the Chinese are prepared to agree to. If the

Court which is to assume jurisdiction over foreigners is the ordinary modern Court—and not a special Court—the obvious sort of safeguard that suggests itself is that when a foreigner appears as defendant before the Court a foreign jurist should sit as one of the judges for the hearing of the case. Certain remarks recently made in strict confidence by Dr. C. T. Wang to Mr. Aveling seem to suggest that the Chinese Government might be willing to accept some such solution.² No useful purpose, however, would appear to be served by pursuing the matter in detail until the ideas of the Chinese Government have been more fully developed.

Although the surrender of criminal jurisdiction should in general be made subsequently to the surrender of civil jurisdiction the possibility of surrendering criminal jurisdiction in certain minor classes of criminal cases concurrently with the surrender of civil jurisdiction should not be altogether ruled out. Traffic cases and offences against municipal byelaws might conveniently all be tried in one Court. This is a problem that is to a great extent peculiar to Shanghai, and the raising of such a question might tend to link up the negotiations on extraterritoriality with the negotiations on the Provisional Court. There is no intrinsic objection to this course being adopted if it appears to hold out a prospect of arriving at some satisfactory arrangement. There has been some agitation in Shanghai recently over the supposed failure of justice arising out of the different views taken by different courts with regard to the question of gambling. This may therefore be the sort of offence in regard to which it might be possible to allow the Chinese Courts to assume sole jurisdiction.

J. T. PRATT

² See No. 91.

No. 105

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received October 25, 9.0 a.m.)

No. 843 Telegraphic [F 5461/64/10]

PEKING, October 25, 1929, 1.45 p.m.

Your telegram No. 357.¹

I agree that Chinese are most unlikely to commit themselves to any proposals short of total abolition with possibly paper safeguards in the form of foreign legal counsellors or advisers. We must bear in mind that they are almost certainly not so much out to seek practical solution along any lines which we should consider safe as to give 'face' and that it is only if they realise that we and other principal Powers cannot be bluffed into going beyond certain definite limits that there is any prospect of negotiations leading to an acceptable compromise.

¹ No. 102.

2. I have so far no clear indication of the lengths to which His Majesty's Government are prepared to go and until we know our own minds in that respect exploratory discussions with such nimble-witted people as Chinese seem to me fraught with danger and likely to lead us deeper into the morass of uncertainty in which we are now groping. I do not even know the reaction to proposals discussed in my despatch No. 1 on tour of May 15² nor whether any views have been formulated by His Majesty's Government as to general lines along which we are in favour of working; i.e. whether geographical or by codes and subjects or some combination of the two.

3. Granted that we could clear our minds as to what we want I should be in favour of informal explation [*sic* ? exploration] of the ground in advance and this could probably best be done verbally with Minister for Foreign Affairs. But I should be most unwilling to initiate such discussions without being much clearer than I am now of what my mandate is. As regards actual negotiations, whether through a preliminary joint committee or otherwise, it is worth considering whether we should not appoint for the purpose some jurist of outstanding reputation and practical knowledge of the problems at issue such for example as Malkin³ if he were willing to come and could be spared. His presence would enormously strengthen my hand and would also, I believe, impress and tend to steady Chinese. I cannot help feeling that a fresh mind might help us all greatly.

4. But admitting desirability of getting discussions of some sort under way before January 1, are we not going a trifle fast for safety? For instance, I do not yet know how you regard Provisional Court scheme (a) see my telegram No. 807.⁴ I have long felt that if something of the kind were to go through it might contain the germ of a solution of the whole problem. My United States and French colleagues and Japanese Chargé d'Affaires all share this view. Moreover any serious discussion must necessarily await the outcome of present rebellion against Central Government. I do not think Chinese themselves expect otherwise for position of Government is undoubtedly becoming more and more critical.

5. Meanwhile I would propose to send in reply to last Chinese note contained in your telegram No. 358⁵ with amendments suggested in my immediately following telegram.⁶ Their object is to make note less committal without impairing its friendly tone. I have talked matter out with above mentioned colleagues who share my views. Please telegraph whether you approve changes.

Repeated to Mr. Aveling and Tokyo.

² No. 10.

³ Legal Adviser to the Foreign Office.

⁴ Not printed.

⁵ No. 103.

⁶ No. 106. The reference should, however, be to No. 107.

No. 106

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received October 25, 10.30 a.m.)
No. 844 Telegraphic [F 5443/64/10]

PEKING, October 25, 1929, 3.50 p.m.

Your telegram No. 358¹ and my immediately preceding telegram.²

If I may venture a general criticism of proposed draft it is that its tone is calculated to raise hopes of Nanking which on basis of our note of August 10 are foredoomed to disappointment. It offers negotiation and alludes to the large measure of agreement between the views of the Governments upon the subject of the proposed negotiation which to Chinese means total abolition of extraterritoriality and to us merely modification of existing system of extraterritoriality. From the outset there would thus seem to be a risk of a conflict of views as to scope and objects of any negotiations. Our note of August 10 does not offer negotiation but only examination, exploration and discussion. My immediately following telegram³ contains the modifications which I would like to see introduced into the draft.

Repeated to Tokyo and Mr. Aveling.

¹ No. 103.

² No. 105.

³ No. 107.

No. 107

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received October 25, 10.50 a.m.)
No. 845 Telegraphic [F 5444/64/10]

PEKING, October 25, 1929, 3.50 p.m.

My immediately preceding telegram.¹

In second sentence of second paragraph of draft for 'negotiate modifications' down to 'practical effect' substitute following 'examine in collaboration with Chinese Government the whole problem of extraterritorial jurisdiction with a view to ascertaining what modifications in present system may be practicable. There would therefore appear to be a large measure of common ground between the two Governments in their mutual desire to enter into a discussion of the problem. It will be difficult however to make any progress towards achievement of practical results'.

In third paragraph for 'enter into negotiations' substitute 'proceed to a joint examination of the problem'.

Repeated to Mr. Aveling and Tokyo.

¹ No. 106.

No. 108

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received October 26, 9.0 a.m.)
No. 850 Telegraphic [F 5463/64/10]

PEKING, October 26, 1929, 10.40 a.m.

My telegram No. 843.¹

United States Minister has since received instructions from his Government and will under them address to Chinese Government note of which text is contained in my immediately following telegram.²

United States Minister is proposing to State Department that he should suspend its delivery at Nanking until November 1 in hope that other Powers interested may be enabled to co-operate at least to the extent of synchronising delivery of their replies.

Repeated to Mr. Aveling.

¹ No. 105.

² Not printed. This text was, subject to minor verbal variation, the same as that of the note of November 1 printed in *Foreign Relations of the United States 1929*, vol. ii, p. 616.

No. 109

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 372 Telegraphic [F 5444/64/10]

FOREIGN OFFICE, October 29, 1929, 4.0 p.m.

Your telegrams Nos. 844,¹ 845,² 850³ and 851.⁴

The draft reply to the Chinese note as amended by you repeats the phraseology of our first note and does not definitely agree to open even preliminary discussions. It might therefore convey the impression that we intend to stand fast on our first note and refuse to take any step until the Chinese have put forward concrete proposals. It is, however, now common ground that the Chinese will certainly not put forward any such proposals and that in our own interests it is desirable to start serious discussions before January 1. In view of terms of American note it seems clear that if the internal political situation permits of such discussions being initiated they will in all probability develop into actual negotiations. I suggest therefore that the note amended in accordance with your suggestions should be presented to Dr. Wang by Mr. Aveling, who should at the same time explain that if the Chinese Government prefer to wait until the discussions commence before presenting their proposals we are prepared to fall in with this procedure and that in that case—assuming that no serious political crisis supervenes—we will commence discussions at any convenient time and place that may be

¹ No. 106.

² No. 107.

³ No. 108.

⁴ Not printed. See No. 108, note 2.

arranged. Mr. Aveling should, however, point out that the adoption of this procedure seems calculated greatly to prolong the negotiations.

If you concur please act accordingly.

Repeat to Tokyo.

No. 110

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 999 [F 5370/64/10]

FOREIGN OFFICE, *October 29, 1929*

Sir,

Dr. Chen, Chinese Chargé d'Affaires, called on October 16 with Dr. Wang Chung-hui, Head of the Legislative [Judicial] Yuan in the National Government of China, and interviewed Mr. Orde and Sir John Pratt.

2. Dr. Wang explained that China was now the only country where extraterritoriality existed. He referred to Turkey, Persia, Egypt and other countries. The Chinese Government were now very anxious to enter into immediate negotiations for the abolition of extraterritoriality. He referred to the very friendly spirit which was now prevailing in China towards Great Britain. It was a great change from the situation that existed two years ago. He referred also to the good effect produced by the negotiation of the Tariff Autonomy Treaty and said how greatly our action in this matter had been appreciated in China. Treaties had been negotiated by Italy, Belgium etc., promising to relinquish extraterritoriality as soon as the other Powers had relinquished it. Other Powers in this connexion really meant Great Britain and, therefore, everything depended upon us. Japan was willing to relinquish extraterritoriality immediately provided that they could secure from China recognition of their right to long-term leases of land in Manchuria, not only in the Railway Zone but in the interior of South Manchuria. Japan did not desire similar privileges in China proper, but was content to maintain the present position under which the activities of the Japanese were confined to the Treaty Ports. China had not yet reached any decision with regard to the Japanese demand for long-term leases in Manchuria. Dr. Wang urged that His Majesty's Government should enter into immediate negotiations upon the subject.

3. Mr. Orde replied that if the attitude of the other Powers practically placed the whole onus upon Great Britain, the reason was that the interests of Great Britain in China were far greater than those of any other Power, and other Powers were, therefore, content to accept any solution which was acceptable to us. They looked in fact to us to safeguard their interests as well as our own. His Majesty's Government did not shirk the heavy responsibilities thus placed upon them, but it made it all the more essential that we should proceed with great caution and only after careful deliberation. The magnitude of the interests involved and the complexity of the extraterritorial system under which those interests had been built up, made it impossible to

do anything in a hurry; it was impossible, for example, to abolish extraterritoriality by a simple stroke of the pen. It was a matter which touched a more sensitive spot than tariff autonomy, which itself had taken time to bring about. A careful system of safeguards would have to be devised in order to ensure that there should be proper protection for life, property and personal liberty. No doubt the Chinese Government had something of this sort in their mind when they referred to arrangements in the last paragraph of their note of September 6, but if negotiations were to be entered into with any hope of success, it seemed essential that the Chinese Government should set forth as a basis of negotiations exactly what system of safeguards and what arrangements they contemplated in lieu of the present system of extraterritoriality.

4. Dr. Wang referred to the Germans and Austrians, but it was pointed out to him that they were few in number and their interests were insignificant; while a system of extraterritoriality applicable to foreigners in general was still in existence, the experience of Germans and Austrians was no guide to what would happen when extraterritoriality was abolished altogether. The experience of the Russians in Manchuria was a grave warning of the disastrous results of the hasty abolition of extraterritoriality before adequate arrangements had been thought out for meeting the situation. Any repetition of such a fiasco in so important an international centre as Shanghai, for example, might have the gravest political consequences for China herself.

5. Dr. Wang showed great reluctance to admit the possibility of putting forward specific proposals as a basis of negotiations, and seemed to think that negotiations should begin immediately when each side might discover the points to which the other attached importance. He also argued that it was a very favourable time to begin negotiations owing to the very friendly atmosphere now prevailing.

6. Mr. Orde again emphasised that the quickest and surest way of bringing negotiations to a satisfactory conclusion was to start on a basis of concrete proposals. It was highly desirable that these proposals should emanate from the Chinese and not from ourselves, because any proposals put forward by the foreigner—however reasonable they might be—would not have a fair chance of dispassionate consideration. He agreed and emphasised that a friendly atmosphere was equally essential to the success of the negotiations.

I am, &c.,

ARTHUR HENDERSON

No. 111

Record by Sir V. Wellesley of a conversation with the Chinese Minister

[F 5684/64/10]

FOREIGN OFFICE, October 31, 1929

Mr. Alfred Sze came to see me this morning to pay his first official visit as the new Chinese Minister.

After a preliminary exchange of compliments the conversation very soon crystalized round the subject of extraterritoriality.

Mr. Sze said he hoped the conference would begin very soon now as the matter was long overdue.

I replied that we were of course quite ready to start talking but that as no doubt he was aware we had asked the Chinese Government to put up proposals as a basis for discussion because we regarded that as the best way to start negotiations. I impressed upon the Minister that it was essential, as much in China's interests as in those of the Powers concerned, that the process of surrendering extraterritoriality should be gradual and subject to adequate safeguards. I had heard, however, that the Chinese Government intended to abrogate the treaties unilaterally on January 1st. If that were so I could think of nothing more deplorable or better calculated to poison the friendly atmosphere of China's relations with the Powers. He must surely know that we and all the other Powers—I meant more particularly America and Japan—were perfectly sincere in our wish to meet Chinese aspirations and that it was only the difficulty and complexity of the problem we have got to face which bids us go slow in the interests of all concerned.

To all this the Minister listened attentively and nodded assent, though in my own mind I have little doubt, subject to mental reservations.

I gathered from a few casual remarks that he made during a somewhat desultory conversation that the Chinese Government had contemplated leaving some classes of special litigation to be dealt with in the Consular Courts but he seemed to me to be somewhat nebulous on the subject.

Mr. Sze then went on to make the fantastic proposal that the best way of dealing with the whole question of extraterritoriality would be for China to send a Mission to all the Powers to deal with them separately.

I told Mr. Sze that I thought this would be rather cumbersome and unlikely to lead to any satisfactory result. The only effective way was to let the Diplomatic Body in Peking deal direct with the Chinese Government. This proposal struck me as a very transparent attempt to play off one Power against another but of course I did not dwell on this aspect of the matter with Mr. Sze.¹

V. W.

¹ The gist of this conversation was reported to Sir M. Lampson in Foreign Office despatch No. 1042 of November 14.

No. 112

Record by Sir V. Wellesley of a conversation with the Chinese Minister
[F 5680/24/10]

FOREIGN OFFICE, October 31, 1929

In the course of a conversation with the Chinese Minister this morning, Mr. Sze alluded to the question of Weihaiwei. He asked me if any progress had been made in the negotiations for rendition to China.

I told him that the matter was in a state of suspense and that as he must be aware it was no fault of ours that the transaction had not been completed. It was no doubt within his knowledge that in 1924 an agreement had been reached which was actually ready for signature when the Chinese Government vanished into thin air. There had been no opportunity to renew negotiations until recently when Sir Miles Lampson was instructed to approach the Nanking Government with a view to signing the 1924 agreement. That agreement, as he must well know, contained certain reservations regarding the use of Weihaiwei as a naval sanitorium [*sic*]. The Nanking Government now rejected these reservations and were demanding unconditional rendition. We had asked the Chinese whether they were prepared to give us facilities elsewhere if we withdrew the 1924 reservations. No reply had yet been received and that was where the matter stood at present. He could clearly see from that that the delay was due to no fault of ours.¹

V. W.

¹ The gist of this conversation was reported to Sir M. Lampson in Foreign Office despatch No. 1037 of November 12.

No. 113

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 1, 10.45 p.m.)

No. 874 Telegraphic [F 5622/64/10]

PEKING, November 1, 1929, 3.30 p.m.

Following from Mr. Aveling No. 216 October 31.

Your telegram No. 844¹ to the Foreign Office.

In the course of a long interview yesterday evening Minister for Foreign Affairs said that question uppermost in his mind was that of extraterritoriality. Could I give him any idea of the line on which His Majesty's Government proposed to proceed and could he assume that as the result of his last note (September 6) you would agree to enter into negotiations at latest before the end of the year but preferably in the course of November? I replied that the matter had been the subject of consultation with London and that I thought he might receive a further note from you in the near future. I reminded him however that in your note of August 10 you had invited Chinese Government to put forward proposals as a basis of negotiations for modification of present system of extraterritoriality. No such proposals had yet been submitted and until they had and His Majesty's Government had been able to give them careful consideration I doubted whether they would agree to enter into discussions.

Dr. Wang told me that although he quite understood His Majesty's Government's attitude he could not possibly meet them on this point. His Government were publicly committed to complete abolition of extraterritoriality of

¹ No. 106.

[sic ? on] January 1 next and neither he nor anyone else in his place would ever be permitted by Government or party to suggest any form of compromise. On the other hand Chinese Government realised that Powers would not agree to surrender their extraterritorial rights at once and the former would welcome any proposals the latter might care to discuss with a view to gradual abolition over a period of a few years. He added confidentially that his scheme see (? my telegram No. 156)² or something along those lines would offer a fair and easy solution of the problem.

² The reference is uncertain but is presumably to No. 91.

No. 114

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 2, 9.0 a.m.)

No. 876 Telegraphic [F 5647/64/10]

PEKING, November 2, 1929, 1.55 p.m.

I am sending in Note in amended form dated November 1 through Mr. Aveling as instructed.¹

As regards verbal explanations which he is to make to Minister for Foreign Affairs I doubt wisdom of suggestion that latter should be informed that we will commence discussions at any convenient time and place that may be arranged. Minister for Foreign Affairs is likely to reply inviting me to open immediate negotiations. But (1) I am averse to any discussions at Nanking until I have received your views on the points raised in my telegram No. 843;² in fact until I have some idea of what our programme is to be, and see in this connexion Mr. Aveling's telegram No. 216³ which indicates that whether we like it or no we shall probably have to formulate proposals of some kind to start the ball rolling and (2) Japanese Minister has shown an inclination to discuss the whole subject with me and United States Minister with a view to exploring possibility of our working out some definite scheme for progressive abolition before he returns to Tokyo to report to his Government in a week or two. It seems desirable to give this possibility time to materialize before I am so definitely committed to discussions at Nanking at beck and call of Minister for Foreign Affairs. In this connexion I earnestly hope that I may receive your views on my telegram [No.] 843 so as to be able to discuss with my Japanese colleague with full knowledge of your wishes. An additional reason for avoiding undue haste is growing uncertainty of stability of Nanking.

As time is short I shall therefore without awaiting your reply to this telegram instruct Mr. Aveling in presenting note now on its way to him to modify sentence in question in his verbal explanations by statement that

¹ See No. 109.

² No. 105.

³ See No. 113.

assuming that nothing intervenes, I hope to visit Nanking and initiate exploratory discussions before the end of the year.

(? Original)⁴ French and Dutch replies are also being posted to Nanking under date November 1.

Dutch note is in form of a brief communication in which Dutch Minister refers to his previous note of August 10 for a considered expression of his Government's views and states that latter 'whilst referring to statement made in his previous note and in accordance therewith is ready to discuss proposal which Chinese Government is to make'.

French note is on the same lines but makes reference to certain recent events calculated to strengthen opinion that security of life and property in China leaves much to be desired. Note concludes that nevertheless French Government have stated their willingness to consider sympathetically the desire of the Chinese Government and that French Minister will have pleasure in forwarding any concrete proposals to his Government.

Texts of both notes⁵ follow by post.

Repeated to Tokyo and Mr. Aveling No. 372.

⁴ The text is here uncertain.

⁵ Not printed.

No. 115

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 379 Telegraphic [F 5461/64/10]

FOREIGN OFFICE, *November 2, 1929, 3.40 p.m.*

Your telegram No. 843.¹

My immediately succeeding telegram² contains general instructions for your guidance in the forthcoming discussions with the Chinese Government on the question of extraterritoriality. If you have no amendments or additions to suggest you should immediately discuss the matter fully on these lines with your interested colleagues with a view to persuading them to follow the same course. It seems essential that the Powers should preserve a united front and not permit China to play one Power off against another. I propose, therefore, as soon as I have received your concurrence to approach the Governments of the countries concerned with a view to persuading them if possible to send instructions in the same sense to their Ministers in Peking.

Repeat to Tokyo; repeated to Paris No. 242 (by bag), Washington No. 553, Oslo No. 49 and The Hague No. 56.

¹ No. 105.

² No. 116.

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 380 Telegraphic [F 5461/64/10]

FOREIGN OFFICE, November 2, 1929, 6.30 p.m.

My immediately preceding telegram.¹

In the absence of any concrete proposals from the Chinese Government on the subject of the proposed abolition of extraterritoriality such as might serve as a basis for negotiations, it is not possible to give you precise instructions as to the course to be adopted in any discussions or negotiations that may take place on this subject. It is only possible to set forth for your guidance in broad general outline the principles which would appear to govern any attempt to find a solution of the problem.

2. The general policy of His Majesty's Government is to adopt a liberal and friendly attitude towards the legitimate aspirations of the Chinese Government, but believing that to progress too rapidly would be as disastrous to China as it would be injurious to the vast and complex foreign interests at stake, they will feel bound firmly to resist proposals looking to immediate and total abolition of extraterritoriality if any such should be made. In their view the abolition of extraterritoriality must be a gradual and evolutionary process, and the extent of the initial modifications that can be made in the present system and the rate of subsequent progress must be determined by the extent to which the Chinese Government accept this proposition and the nature of the safeguards that they may be willing to erect at each stage of the process.

3. After careful consideration I remain of the opinion that there are grave objections to the geographical method of approach, meaning thereby the proposal that has been put forward in various quarters that extraterritoriality might be abolished in the interior but retained in the treaty ports. It is in the interior that foreigners would be most likely to be subjected to injustice or to barbarous treatment. It would be necessary to stipulate that British subjects in the interior could only be tried in the nearest modern court which in most cases would be at a treaty port but when brought down to the treaty port he would be among his fellow British subjects who were not subject to Chinese jurisdiction. Abolition in the interior where so few foreigners reside would moreover make little perceptible change in the present system and would therefore do little to remove the causes of Chinese dissatisfaction or blunt the edge of the attack on the privileged position of foreigners. The Chinese would doubtless accept an offer of abolition in the interior as it would to some extent fulfil their demand for total and immediate abolition—but they would ask for more. Moreover by admitting the principle that foreigners in the interior should be placed under Chinese jurisdiction for all purposes we should have cut at the root of our contention, which it is at present important to maintain, especially as regards criminal jurisdiction, that the state of the

¹ No. 115.

administration of justice in China does not permit of foreigners generally being made amenable to the jurisdiction of Chinese courts. I think therefore that you should discourage the idea that this proposal offers a practicable method of approach and endeavour to concentrate on the method of transfer of jurisdiction by subjects in the general order (1) civil cases, (2) criminal cases and (3) personal status matters.

4. In January 1927 His Majesty's Government made proposals to China based on the idea of beginning with a first stage in which Chinese law would be progressively applied by the Consular courts. I am assuming that this idea may have to be dropped as presenting no attractions to the Chinese and presenting undesirable administrative difficulties. But it would seem to be advisable to bring it once again to the attention of the Chinese Government in order to bring out the point that the failure to carry this proposal into effect was chiefly due to the difficulty of ascertaining what codes were actually applied universally in Chinese courts—a difficulty which is still one of the chief obstacles to subjecting foreigners to Chinese jurisdiction.

5. If it is dropped I am of opinion that the most we can envisage as practicable in the near future is (1), and that, subject to paragraph 10 below, we should firmly resist any attempt to obtain any transfer of criminal jurisdiction until the experience gained of the administration of civil jurisdiction by the Chinese courts demonstrates that they could be entrusted with criminal jurisdiction without excessive prejudice to the interests of British subjects. Within the scope of (1) there is ample opportunity for negotiation with a view to securing the objects indicated in paragraph 2 and ensuring as far as possible that jurisdiction should not be transferred until there is a reasonable probability that the Chinese courts can exercise it adequately. I think that at present we should concentrate on negotiation on these lines.

6. If jurisdiction in any class or classes of civil cases is to be transferred to a Chinese court it would appear to be more satisfactory that that court should be the modern court organised under the existing system of judicial administration rather than a special court created *ad hoc*. A special court might become an object of nationalist attack and a source of friction and thus prove unsatisfactory in practice, whereas foreign recognition and a measure of jurisdiction over foreigners would add to the prestige and efficiency of the modern court. This course would certainly be more satisfactory to the Chinese and moreover seems calculated to smooth the path of evolution towards the final disappearance of extraterritoriality. It would however be necessary to stipulate that only modern courts which had been efficiently organised and adequately staffed should assume jurisdiction over foreigners, and to this extent some adoption of the geographical principle may be admissible.

7. Civil jurisdiction over foreigners could only be transferred to Chinese courts in respect of those classes of cases in regard to which satisfactory modern codes had already been promulgated and actually put into operation. The area of Chinese jurisdiction might be widened as and when new codes are elaborated and enforced, and as the number of efficient modern

courts becomes sufficient to cope with an increase of jurisdiction. It will be necessary carefully to examine the Chinese codes in collaboration with the delegates appointed by the Chinese Government and a final decision in each case must of course await the result of such examination.

8. The question of safeguards is one of peculiar difficulty. The most important desideratum is of course the cessation of administrative or military interference with the tribunals. Experience in other countries has shown that the employment of foreign legal counsellors is illusory unless the Government is genuinely anxious to make good use of them. Unless you think that there is a fair prospect of this condition being fulfilled in China, it does not seem worth while to press for the adoption of this plan. The power of evocation is in practice principally useful only as a threat the existence of which may induce the Government to maintain a decent standard in their courts. You are in the best position to judge whether as such it would be of value in China. There remains the plan of the employment by the Chinese Government of foreign judges one of whom would sit with the Chinese judges in the modern court when a foreigner is the defendant. You should press the Chinese Government to agree to some such arrangement, without which it will be difficult to make any real concession at once. Satisfactory provision for legal assistance would also have to be made, but I should imagine it would not be difficult to secure the right of foreigners to be represented by foreign lawyers of their choice.

9. Suits by British subjects against Chinese would be tried in the modern courts in accordance with our present practice without the presence of a British assessor but with provision for British or other legal assistance. Suits between British subjects might continue for the present to be heard in the British court. It might however be preferable that suits between foreigners of different nationalities should be heard in the Chinese court, not only because without this there would be no scope for any transfer of jurisdiction in the immediate future, but also in order to avoid disputes arising out of attempts to distinguish between those who have and those who have not lost their extraterritorial rights. Disputes between foreigners will probably generally be settled by arbitration and it will be necessary to secure that such arbitral awards shall be recognised and enforced by the Chinese courts.

10. In connexion with any transfer of civil jurisdiction the position of British shipping and the enforcement of Chinese taxation will no doubt require special consideration.

11. Though in general the transfer of criminal jurisdiction should be made subsequently to the transfer of civil jurisdiction a beginning might be made at an early stage, or even simultaneously, with minor offences such as breaches of municipal or other similar regulations and offences generally classed as police offences. Gambling might profitably be added to this category. Jurisdiction in these cases should be exercised not by police tribunals but by courts of higher standing, and the concession should be hedged around with stipulations designed to prevent arbitrary action or undue interference with liberty, while if such courts were to possess any power of imprisonment the

question of prisons would of course require consideration. Such an arrangement would be particularly valuable at a place like Shanghai. If the discussions on this point should become linked up with the negotiations over the Provisional Court there would seem to be no intrinsic objection to attempting to arrive at some satisfactory solution by this means.

12. The administrative aspect of extraterritoriality will need careful consideration especially if any concession is made as regards criminal jurisdiction. It will be necessary to devise means of protecting British subjects, their ships and factories and other premises, against domiciliary visits and vexatious inspections made for the ostensible purpose of collecting taxes or enforcing regulations.

Repeat to Tokyo. Repeated to Paris No. 243 (by bag), Washington No. 554, Oslo No. 50 and The Hague No. 57.

No. 117

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 381 Telegraphic [F 5667/64/10]

FOREIGN OFFICE, *November 4, 1929, 5.45 p.m.*

My telegrams Nos. 379 and 380:¹

Information which, though somewhat obscure in character, comes from a source of unquestionable reliability, has reached me to the effect that attitude of Chinese Government towards negotiations with His Majesty's Government in the United Kingdom relating to extraterritoriality is governed by following considerations.

Chinese Government consider it of vital importance that they should be able to issue categorical declaration in near future of their decision that foreign nationals must as from January 1, 1930, be amenable to central and local legal jurisdictions in China. They will apparently consider themselves sufficiently justified in making declaration if principle is established that all civil cases without exception shall be judged by Chinese legal authorities. Their interpretation of this principle seems to be that the first hearing of any civil case in which defendant is a national of a State holding extraterritorial rights shall be carried out entirely by Chinese justices, while in the event of an appeal the Chinese judge of second instance will before the hearing nominate and subject to Central Executive's sanction appoint a legal adviser to watch the case: latter will also participate in decision of court of second instance. Presumably this adviser is to be foreigner of nationality of defendant but this point is not clearly brought out. Any further information received in support of it or otherwise will be telegraphed. In civil actions between nationals of the same foreign State presence of 'legal representatives' of the latter is contemplated but Chinese judge or justice must agree that judgment is valid.

¹ Nos. 115 and 116.

Chinese Minister in London is to approach His Majesty's Government on the above basis of discussion, but he has not done so yet.

It seems clear that no mention is made of criminal jurisdiction.

No. 118

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 385 Telegraphic [F 5714/1959/10]

FOREIGN OFFICE, *November 6, 1929, 6.30 p.m.*

At the last Assembly of the League Dr. C. C. Wu moved for the appointment of a Committee to consider methods of making effective Article 19 of the Covenant. He said that he had the 'unequal' treaties in mind. After discussion a resolution was adopted declaring that any member might apply to Assembly to give advice as contemplated by Article 19 and that Assembly would discuss application and if it thinks proper give the advice requested.¹

Lord Cecil² has suggested that if the Chinese Government pursue the suggestion that Article 19 should be used for the review of the 'unequal' treaties, the next step should be that the Chinese should move for the reconsideration of the treaties. The question would then be referred to a Committee which, if we so desired, might be an expert Committee sitting at Geneva or elsewhere, or any other machinery that was fair and just could be employed. After consideration there would be a report which would probably be adopted. Either we or the Chinese Government could refuse to accept the decision reached in this report, but unless either of us could make out a good case the pressure to accept would be very strong.

This suggestion is now being examined in the Department, but we should be glad to receive your observations at the earliest possible moment. If it is decided that this suggestion offers the most favourable prospect of arriving at a solution of the difficulties in regard to extraterritoriality and the other questions arising out of the 'unequal treaties' please consider whether the action you have been instructed to take with a view to initiating direct negotiations with the Chinese Government should be suspended and please telegraph your view as to the effect upon our position in China of such suspension.

¹ See *League of Nations Official Journal, Special Supplement No. 75, 1929, 'Records of the Tenth Ordinary Session of the Assembly: Plenary Meetings'*, p. 177. See also No. 163.

² Lord Cecil was acting as adviser to the Foreign Office on League of Nations affairs.

No. 119

Sir M. Lampson (Peking) to Mr. A. Henderson (Received December 23)

No. 1599 [F 6861/64/10]

PEKING, *November 6, 1929*

His Majesty's Minister, Peking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs, and transmits herewith copy of a note to the Waichiaopu of the 1st instant respecting extraterritoriality.

*Sir M. Lampson to Dr. Wang*PEKING, *November 1, 1929*

Sir,

I have the honour to acknowledge receipt of your further note of the 6th September on the subject of extraterritoriality, and I am now instructed to communicate to your Excellency in reply the views of His Majesty's Government in the United Kingdom to the following effect:—

In the concluding paragraph of your note under reply the Chinese Government express their desire that His Majesty's Government may enter into discussions with them for the purpose of making necessary arrangements whereby extraterritoriality in China may be abolished to the mutual satisfaction of both Governments. In my note of the 10th August His Majesty's Government expressed their willingness to examine in collaboration with the Chinese Government the whole problem of extraterritorial jurisdiction with a view to ascertaining what modifications in the present system may be practicable. There would, therefore, appear to be a large measure of common ground between the two Governments in their mutual desire to enter into a discussion of the problem. It will be difficult, however, to make any progress towards the achievement of practical results until the Chinese Government, as suggested in my note of the 10th August, have put forward concrete proposals to serve as a basis of negotiations. His Majesty's Government have not yet received any indication of the nature of the arrangements which the Chinese Government consider should be made as intimated in the last paragraph of your note. The views of the Chinese Government on the subject are, however, a matter of vital concern to the Powers who are to take part in the proposed negotiations. Arrangements to be made will need most careful elaboration, and it is on the measure of success with which this task is accomplished that must depend the nature and extent of the changes that can be made, to the satisfaction of both Governments, in the present system of extraterritoriality.

His Majesty's Government, in reiterating their willingness to proceed to a joint examination of the problem, have thought it proper to put forward these considerations not out of any desire to frustrate the wishes of the Chinese Government but because if the proposed negotiations are to pursue a fruitful course and lead to satisfactory results without undue delay it seems clearly desirable that the proposals which will form their subject should first be submitted to careful preliminary study.

I avail, &c.,

MILES W. LAMPSON

No. 120

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 7, 9.0 a.m.)
No. 889 Telegraphic [F 5721/64/10]

PEKING, November 7, 1929, 1.20 p.m.

My telegram No. 876¹ paragraph 4.

Following from Mr. Aveling No. 225 November 5.

I acted accordingly this afternoon. Minister for Foreign Affairs, though obviously gratified by its tone and contents, made no comment on note except to say that he could not himself put forward compromise proposal (see my telegram No. 216)² or go further than he had already done in outlining to me confidentially and unofficially the lines on which he thought solution could be found (see my telegram No. 156).³

2. Dr. Wang expressed his keen appreciation of your verbal message and at once enquired where, in your opinion, negotiations should take place. If discussions at Nanking would entail delay due to necessity for frequent consultations with Foreign Office he would quite agree to question being handled in London by Chinese Minister direct with Foreign Office. Dr. Sze, he said, was fully acquainted with views of Chinese Government and he would have no objection whatever to entrusting negotiations to his hands. Dr. Wang added that whilst he would prefer to negotiate with you personally at Nanking he was quite prepared to meet our wishes in the matter.

3. May I be informed in due course of reply which you wish me to return to above proposals?

¹ No. 114.

² See No. 113.

³ See No. 91.

CHAPTER III

Further correspondence with regard to the demands of the Chinese Government for the abolition of extraterritorial rights in China

(November 9, 1929–January 6, 1930)

No. 121

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 9, 7.0 p.m.)

No. 894 Telegraphic [F 5779/64/10]

PEKING, November 9, 1929, 8.30 p.m.

Your telegrams Nos. 379¹ and 380.²

After a preliminary conversation with my Japanese and United States colleagues we had a meeting of interested Ministers on November 8, there being present the Dutch, American and Japanese Ministers, a representative of French Minister (ill in bed) and myself. Norwegian Chargé d'Affaires is absent in Shanghai. I had previously circulated text of our proposals as contained in your telegram 380 and I explained that I was instructed to discuss them in the hope that I might be able to induce my interested colleagues to endorse with their Governments the programme of His Majesty's Government.

2. It was made clear that save for myself any views expressed were purely personal and not founded on the approval of/or instructions from my colleagues' respective Governments. I undertook to bring this out in my report home.

3. In reply to my request for individual views Netherlands Minister said that he naturally preferred his own geographical scheme, the arguments in favour of which he repeated, namely, that extraterritoriality in the interior was liable to abuse, that its abandonment there would remove a genuine Chinese grievance and give assurances to Chinese Government that anomalies pointed out in paragraph 3 of your telegram were more apparent than real and that in any case there were bound to be anomalies whatever course we followed. At the same time what really mattered was that we should agree on a common line and as His Majesty's Government had put forward these carefully thought out, concrete and practical proposals he was prepared to endorse them and hoped that his colleagues would do likewise.

¹ No. 115.

² No. 116.

4. My United States colleague shared the views of Netherlands Minister in favour of geographical plan (abolition in interior) and read a 'demonstrable statement' summary of which is contained in my immediately following telegram³ on the understanding that it was to be regarded as a purely verbal and personal expression of opinion. While strongly urging preponderating advantages of geographical method he suggested that those present should recommend to their Governments that the point should be discussed with His Majesty's Government and that if former were unable to persuade latter to change their point of view the next best thing would be, for the purpose of unity, to rally to British proposals.

5. French representative while explaining that French Minister was like his colleagues with the exception of myself without instructions said that French Legation saw grave objections to geographical method to which he thought it unlikely that French Government would agree and he proceeded to read a verbal statement summary of which is also contained in my immediately following telegram⁴ which is likewise to be regarded as personal expression of opinion.

6. Japanese Minister was unable to commit himself to any definite views; he had given much thought to the problem during past few days but was still neutral on the main points of the two methods (geographical versus subject by subject) with (if forced to make a premature pronouncement) a slight preference for the former. He referred to possibility of a compromise between the two (? as suggested in)⁵ proposals of French judicial . . .⁵ (see enclosure (5) in my despatch of May 15th).⁶

7. I then took the meeting through a detailed examination point by point of proposals formulated in your telegram with the following result.

8. Apart from fundamental question of method of approach *all* our proposals were agreed to and I got as far as eliciting a general endorsement of view that even under geographical method we should hope that problem might be approached in the order of your categories 1, 2 and 3. We also agreed on following comments. While proposal for application of Chinese laws in foreign consular courts was entirely acceptable to us it was unlikely that Chinese would attach much value to it or regard it as sufficient. As regards a joint examination of Chinese codes it was doubtful if Chinese would

³ Not printed. This statement is printed in *Foreign Relations of the United States 1929*, vol. ii, pp. 618-20.

⁴ The relevant portion of this telegram read as follows:

'Following is a summary of French statement:

'Plan to abolish extraterritoriality progressively by abandoning it in the interior offers great disadvantage from point of view of French interests. Two French railways Yunan and Shansi lines would be placed under Chinese control; their exploitation would become impossible and numerous French citizens' lives and railways in question would be exposed to endless annoyances.

'Proposals to apply Chinese laws in foreign consular courts could without great difficulty be carried out as far as the French courts are concerned.

'Proposal to surrender civil cases could usefully serve as a basis for a study of a programme for abolition of extraterritoriality.'

⁵ The text is here uncertain.

⁶ No. 1c.

agree to participate; there would however be no harm in suggesting it. Importance of point made in paragraph 10 of your telegram regarding (? shipping)⁷ and taxation was fully recognized but we were not at this stage clear exactly how special provision could be made. It was agreed that safeguards furnished by foreign counsellors would be illusory and that some system of foreign co-judges was the thing to go for. Right of evocation (or failing that some system of retrial) was worth asking for. Guarantees against interference with judiciary were highly desirable but we were not clear what effective form such guarantees could in practice take. We attached special importance to your point regarding recognition by Chinese courts of arbitral awards between foreigners and we considered system should be extended to cover cases (? between)⁷ foreigners and Chinese. As regards the inclusion of minor criminal cases we agreed that something might be worked out but only in the case of courts such as that at Shanghai where some form of 'watch dog' system was in force.

9. It was finally decided (a) that I should report the results of our discussion to His Majesty's Government and (b) that my colleagues would report similarly to their Governments and add that His Majesty's Government would in all probability be making detailed proposals to them in the near future. It would then be for His Majesty's Government to decide whether arguments formulated by my colleagues in the present discussion would move them to modify their views as regards fundamental question of method of approach and whether their proposals would thus be presented at the various capitals in their original or in modified form.

10. United States Minister wound up the meeting by remarking that we had reached agreement on all points in proposals of His Majesty's Government with the exception of the one question of method.⁸

Repeated to Mr. Aveling and Tokyo.

⁷ The text is here uncertain.

⁸ See also *Foreign Relations of the United States 1929*, vol. ii, pp. 617-18.

No. 122

Record by Sir V. Wellesley of a conversation with the Chinese Minister

[F 5797/64/10]

FOREIGN OFFICE, November 11, 1929

Mr. Sze called this afternoon and told me that he had telegraphed to his Government the gist of our conversation on the 31st October.¹

He said that he had emphasized the three points which I had made, namely:—

1. Our readiness to open negotiations.
2. The necessity to go slow.
3. That we thought it was up to the Chinese to put forward proposals.

¹ See No. 111.

As regards the last point Mr. Sze said that his Government thought that a basis for discussion could best be found when the negotiations began.

Mr. Sze then said that he had heard from his Government that they had received the second note from Sir Miles Lampson which also expressed our readiness to open negotiations. Dr. Wang was very anxious that an agreement should be reached before the first of January. I replied that this would depend more on the Chinese attitude than ours, but I observed that I thought it was expecting a lot if the Chinese Government really thought that a final solution of such a complex subject as extraterritoriality could be arrived at in so short a space of time. It seemed to me to be asking for the moon. Mr. Sze said that personally he agreed with me but he would tell me confidentially that the trouble lay in the promises which Dr. Wang and other members of the Government had made to the Chinese people in their speeches and publications. They had committed themselves so deeply that they feared trouble unless they could deliver the goods and that they were anxious to find some way out. I told Mr. Sze that that was my impression too, but I did not see that I could suggest anything better than that the Chinese Government should come forward with proposals of their own as quickly as possible.

Mr. Sze then said that he would like to put forward a proposal of his own for our consideration but he wished it to be understood that it was a personal one and had not yet the approval of his Government behind it. He thought that possibly a way out of the difficulty might be found if His Majesty's Government and China were to sign an agreement on the following lines. He thought an agreement of three short articles might meet the case. Viz:—

1. His Majesty's Government to agree in principle that British Subjects in China shall submit themselves to Chinese jurisdiction.
2. His Majesty's Government and the Chinese Government will negotiate immediately for the purpose of putting into effect the preceding article.
3. A time-limit.

Such an agreement, Mr. Sze said, might help the Nanking Government over their difficulty. He asked me to consider this proposal, which, if acceptable, he would recommend to his Government. I told him I would be ready to do this but he must understand that we could not start any negotiations here. Was it in his mind, I asked, that we alone should sign such a document? It seemed to me essentially a proposal which should be put forward by the Chinese Government to the Representatives of the Powers in China. To this Mr. Sze gave me no direct reply but told me that instructions had been sent to the Chinese Minister in Washington to open negotiations with the State Department direct. I remarked that if, as he had just assured me, time was of the essence of the matter I could not understand how the Chinese could hope to expedite a solution of the extraterritoriality question by negotiating with the Powers separately, which would only serve to prolong and to complicate matters. I earnestly hoped that he would urge his Government not to make any such attempt and to concentrate their attention on

negotiating with the Representatives of the Powers in China. To this request the Minister remained silent and there the conversation on this subject ended.

It is quite clear to me that Mr. Sze is making a desperate attempt to play off one Power against another by insisting on starting negotiations separately with each and his present proposal looks as if he wishes to inveigle us into discussions at this end in defiance of what I have made quite clear to him from the start.

Ought we not to warn Washington and the other Powers?²

V. W.

² See No. 126.

No. 123

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 12, 9.0 a.m.)
No. 901 Telegraphic [F 5785/64/10]

PEKING, November 12, 1929, 12.10 p.m.

Mr. Aveling's telegram No. 225.¹

Japanese Minister told me November 7 that he has had no indication of willingness of National Government to conduct extraterritoriality negotiations in respective capitals. United States Minister, however, confirms that suggestion has been made in case of the United States. While personally deprecating idea as making it easier for China to play off one Power against another he thinks it likely that State Department may fall in with it or at least find it difficult to say no.

Repeated to Mr. Aveling and Tokyo.

¹ See No. 120.

No. 124

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 12, 11.5 p.m.)
No. 902 Telegraphic [F 5798/64/10]

PEKING, November 12, 1929, 12.20 p.m.

On November 7 Kuowen (? Kuomin)¹ news agency published report from Nanking, a passage in which runs that as a result of most recent foreign replies on extraterritoriality 'The Waichiaopu takes view that the replies offer definite way for abolition of extraterritoriality and has decided to adhere to original resolution to abolish consular jurisdiction on January 1 next'.

It seems difficult to ignore this statement. I believe that evidence of the

¹ This suggestion was made in the Foreign Office.

accommodating nature of our various latest notes has in fact appreciably increased the danger of unilateral denunciation.

In view of Kuowen's utterance it occurs to me that it might be worth while reverting to earlier idea (see my telegram No. 700)² of a most serious warning to Chinese Minister in London against danger of unilateral denunciation. It could do no harm and might do much good; it might also prevent subsequent charge that we had had fair warning of what was coming and had taken no notice of it.

Should you decide on this step French and Japanese Governments have already (see correspondence of last summer) shown their readiness to follow suit and French and Japanese Ministers are ready to recommend reverting to it. United States Minister has always held most strongly that it was a great mistake to abandon original proposal. His Government having held otherwise he has felt precluded from doing more than call their attention to Kuowen message. This he has already done and is now informing them that his other colleagues are now laying this suggestion once more before their Governments.

In the event of such a warning being issued in London it would be well that I should inform Minister for Foreign Affairs in writing of its provisions.

Repeated to Mr. Aveling and Tokyo.

² No. 92.

No. 125

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 19, 12.35 p.m.)
No. 910 Telegraphic [F 5834/3745/10]

PEKING, November 14, 1929, 4.35 p.m.

Your despatch No. 879¹ and your telegram No. 361.²

Whilst I admit force of much of what Sir J. Pratt says I am not sure that Consortium is or has been so wholly harmful as his memo. would infer. But even if it was I should deprecate at present adding one more to the many issues already before us, unless absolutely necessary.

I suggest that question should, *for the present*, be judged from the angle: does or does not Consortium conflict with our indemnity policy; namely placing of exclusive orders for railway material in the United Kingdom with indemnity funds.

Hukuang completion being unaffected by existence or non-existence of Consortium—see paragraph 29 of printed memo.—does Consortium preclude placing in United Kingdom exclusively of contracts for other already existing British constructed lines?

¹ No. 95.

² Not printed. This telegram of October 21 requested Sir M. Lampson's views by telegraph on policy towards the Consortium.

There can hardly be a question of a public loan in regard to 'accumulated fund' of 3 million pounds sterling: Consortium commitments are not therefore involved in its expenditure.

As to future indemnity instalments there must surely be some legitimate means of turning difficulty of a 'public issue' if that is a difficulty. See, for instance, recommendation by C. C. Wang, endorsed by whole of Willingdon committee, for short term loans by British and Chinese banks on security of indemnity funds—see pages 61 and 62 of indemnity blue book.³

Even if some such arrangement is debated proposal is so eminently reasonable, namely to use our own money in our own country for purposes mutually beneficial to China and Great Britain, that other Consortium groups could hardly reasonably object if matter were explained to them. At Consortium council meeting of May 15 1922 resolution was adopted to the effect that such rights and options as extensions of Peking-Mukden railway and Shanghai-Nanking railway are technically outside the scope of the Consortium. Sir C. Addis's comment on this was that it established beyond question that options arising out of agreements owned by British and Chinese Corporation but not pooled are indefeasible property of the Corporation. That presumably means that even public loans for use on such options—and *a fortiori* for rehabilitation of line themselves—are not debarred by our Consortium commitments.

Contrary to what memorandum says I believe Consortium has been useful in the past in exercising influence and that knowledge of its existence has made it impossible for China to try and play us off one against the other. Nor am I convinced outside firms would find it so simple as memorandum implies to issue non-Consortium loans to China even when credit is restored. On the assumption that any substantial issue must ultimately find its way to British and or American market I doubt if many sufficiently important and reputable houses exist outside national groups who would be either ready or financially capable of issuing loan of any size to China.

Again it is a fundamental principle of Consortium policy not to lend China any financial assistance unless some provision is or has been made for existing foreign liabilities. I should be very chary of eliminating at this stage anything which might help to serve as a lever in that direction.

I share the belief that China will never willingly turn to Consortium and that sooner or later it may have to go or re-cast its constitution or even transform itself into something else. But we are still far too far from political or financial stability in China for successful application for money in any reputable foreign quarter to be a practical issue yet. By the time it becomes one much else may have happened and our views about the Consortium may take a new shape. Meanwhile I should emphasize letting sleeping dogs lie.

Since above was drafted I have (? had)⁴ a chance to throw a discreet fly over my United States colleague. I find that he would view with consternation any idea of upsetting Consortium arrangements at present. He regards Consortium as having been even more useful than I should be inclined to

³ Cmd. 2766 of 1926.

⁴ The text is here uncertain.

admit. If he represents in any way the views of his Government I can safely say that any suggestions from us to overhaul Consortium would *not* be welcome at any rate at present.

Repeated to Mr. Aveling and Tokyo.

No. 126

Mr. A. Henderson to Sir E. Howard (Washington)

Nos. 577 and 578 Telegraphic [F 5780/64/10]

FOREIGN OFFICE, *November 14, 1929, 7.30 p.m.*

My telegrams Nos. 379¹ and 380² to Peking and Peking telegrams Nos. 894³ and 895.⁴

After careful consideration of the arguments put forward by United States Minister in Peking telegram No. 895 under reference I adhere to the views expressed in my telegram No. 380 to Peking. I should be glad if you would take an early opportunity of discussing the whole question with the Government to which you are accredited with a view to persuading them to send instructions on similar lines to their Minister in Peking. Should they seem disposed to prefer United States Minister's proposals to our own you might place the following considerations before them.

2. The right to trade in the interior has been enjoyed since the Treaties of 1858⁵ and at no period have foreigners in the interior been subjected to Chinese jurisdiction. Had it been otherwise the opening of China to foreign trade, even to its present limited extent, would hardly have been possible. The complete opening of the interior is the ultimate goal which both we and the Chinese have in view, but Mr. MacMurray's proposals appear rather to advocate a retrograde policy based on the principle of holding firmly on to everything that can be defended by force and letting all the rest go. Similarly the alternative geographic plan of relinquishment by special areas seems to envisage the protection of foreigners by a free resort to force rather than by constitutional safeguards agreed to by the Chinese Government.

3. Even when relinquishing extraterritoriality in the interior Mr. MacMurray appears to contemplate progressive relinquishment in the order suggested in my telegram No. 380 to Peking, namely, (1) civil jurisdiction (2) criminal jurisdiction (3) personal status matters. It would surely be more satisfactory at any rate until we see in which direction the Chinese intend to press, not to differentiate in this respect between the interior and the Treaty Ports, but to safeguard the foreign interests at the larger Treaty Ports, to the importance of which Mr. MacMurray rightly draws attention, by stipulating that at these places the Courts to which jurisdiction is transferred are really

¹ No. 115.

² No. 116.

³ No. 121.

⁴ Not printed: see No. 121, notes 3 and 4.

⁵ See Article IX of the Treaty of Tientsin between Great Britain and China (Introduction, note 19): see also No. 52, note 2.

efficient Courts. As regards minor criminal jurisdiction the danger of persecution by petty officials and police is fully recognised in Paragraph 11 of my telegram No. 380 to Peking.

4. The dangers that I am particularly anxious to guard against are that the State Department may be persuaded to negotiate in Washington instead of in Nanking and that they may, without adequate consideration, agree to immediate total abolition in the interim. This would cut the ground from under our feet and the Chinese would then press for further concessions from us thus making a mutually satisfactory solution very difficult of attainment.

You should speak clearly as to the importance we attach to a united front and to negotiations being conducted in Peking, saying that Chinese Minister in London has suggested separate negotiations with the Foreign Office which we have told him would not be acceptable.⁶

Repeated to Peking Nos. 400 and 401 for Tokyo, Paris Nos. 264 and 265 by bag, Oslo Nos. 60 and 61, and The Hague Nos. 58 and 59.

⁶ See No. 122.

No. 127

Mr. A. Henderson to Lord Tyrrell (Paris), Mr. Gascoigne (Oslo) and Sir O. Russell (The Hague)

No. 266¹ Telegraphic: by bag [F 5780/64/10]

FOREIGN OFFICE, *November 14, 1929, 7.30 p.m.*

My telegrams Nos. 577 and 578 to Washington.²

You should take similar action with the Government to which you are accredited.

Repeated to Peking No. 402 for Tokyo.

¹ No. 266 by bag to Paris, No. 62 to Oslo, and No. 60 to The Hague.

² No. 126.

No. 128

*Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 15, 12.25 p.m.)*

No. 921 Telegraphic [F 5873/1959/10]

PEKING, *November 15, 1929, 5.35 p.m.*

Your telegram No. 385.¹

I view suggestion with grave misgiving.

2. It is hardly for me to comment on more general question of advisability of encouraging appeal to Article 19, affecting as it may not only our treaties with China but the whole field of our treaty relations with foreign countries

¹ No. 118.

including treaties of peace. *Prima facie* I should have thought this of questionable wisdom.

3. I am not clear as to exact implication of Article 19 or of Assembly's resolution (which has never been sent to me) but text of former seems to contemplate appeal by a Power to Assembly for a ruling that either (a) one of its treaties with another Power should be reconsidered since it had become inapplicable or (b) that conditions in a particular country endanger peace of the world. I take it that in either event Assembly's task under Article is limited in the first [? case] to ruling whether (1) treaty in question is in fact inapplicable or (2) peace of the world is endangered; and in the second to 'advising' parties concerned (a) to reconsider their treaty or (b) to devote consideration to particular international conditions whose continuance might endanger peace of the world. If I understand Lord Cecil's plan aright it stretches meaning of Article to include right of Assembly to go further than the above and to lay down line on which treaty in question should be revised or dangerous conditions be removed.

4. To come to practical details inequalities in treaties if analyzed resolve themselves into (a) tariff, (b) extraterritoriality, (c) inland water navigation. We have conceded full tariff autonomy; we are committed to more or less immediate negotiations regarding extraterritoriality. We have shown by our draft commercial treaty of last May full readiness to discuss navigational rights. Chinese thus either already have what they want or prospect of full and friendly negotiation on their outstanding *desiderata*. Nor judged by normal international standards has rate of progress been unduly slow.

5. I have profoundest misgiving of submitting British interests in China to the whim of 50 odd members of the League Assembly of whom very few can have any substantial knowledge of facts or only some half dozen any community of interest with ourselves in the matter.

6. Moreover I cannot believe Japan would ever agree to submit revision of her treaties with China to adjudication of the League, or indeed to any other outside body, and America, the other Power whose attitude really matters, certainly would not do so. Again quite apart from these sufficiently serious objections I regard it as most unlikely that China having succeeded in bringing Powers to brink of independent negotiations regarding extraterritoriality would even (? ever)² consent to see problem now handed over to the League with possible (and I hope probable) prospect of a visiting committee of enquiry poking its nose into administration of justice and conditions generally out here.

7. Should it none the less be decided to proceed with proposal (see 3rd paragraph of your telegram) I should be against interrupting discussion already begun with Chinese Government.

It would be liable to misunderstanding and might even be regarded as a subterfuge to avoid doing anything.

Repeated to Mr. Aveling and Tokyo.

² This suggestion was made in the Foreign Office.

Lord Tyrrell (Paris) to Mr. A. Henderson (Received November 16)

No. 153 Telegraphic: by bag [F 5878/64/10]

PARIS, November 15, 1929

Your telegram No. 266¹ of November 14.

1. A memorandum containing text of proposals communicated to Sir M. Lampson in your telegram No. 380 to Peking² was handed this evening to M. Naggiar, head of Far Eastern Department of Ministry of Foreign Affairs. He said that, with the aid of this memorandum and report of Ministers' meeting of November 8 received from M. de Martel, instructions to latter would now be prepared. As soon as they were despatched, they would be communicated to the interested Powers—he hoped in the course of next week.

2. M. Naggiar could at the moment only indicate very generally the probable attitude of the French Government. The position was very embarrassing to them. It seemed illogical to start with the Interior, as the Americans proposed. On the other hand, if we said we would cede extra-territoriality where there were modern tribunals we might be faced with the answer that there were modern tribunals at Shanghai and the ports where 80 per cent. of the foreign population was congregated. It would be very awkward to have to cede even jurisdiction in civil cases in these areas, for experience showed that it was not merely imprisonment that was to be feared at the hands of Chinese justice, but extravagant fines, confiscation of goods, etc.

3. In these circumstances, French Government wondered whether another alternative was not possible, and whether we might not begin by a general declaration suppressing extraterritoriality in principle, but making exceptions for certain districts, which were of interest to particular Powers. Thus the French would reserve the Yunnan and Shansi, the British Shanghai and the ports, the Japanese Manchuria etc., etc. In addition the French Government did not see why certain jurisdiction should not be conceded even in the reserved areas if there was a 'mixed' court, say, as in Egypt. But there would have to be an European as well as a Chinese judge.

4. Above obviously approximates in some respects to American attitude, and considerations contained in paragraphs 2 and 3 of your telegrams Nos. 577 and 578 to Washington³ were therefore put to M. Naggiar, who took note thereof.

5. M. Naggiar emphasized the fact that French Government had not yet agreed to negotiate with Chinese Government. They were, unlike you and the Americans, still technically awaiting Chinese proposals. However, whole situation would now be reviewed and instructions to M. de Martel drafted. On these instructions he would enter into discussion with his colleagues and, in view of importance of united front, would endeavour to get agreement with them and negotiate with Chinese on common principle. M. Naggiar,

¹ No. 127.

² No. 116.

³ No. 126.

in reply to enquiry, stated categorically that there could be no question of M. de Martel beginning a negotiation with Chinese until after he had tried to get agreement with his colleagues. Nor could there be any question of a negotiation except at Peking.

No. 130

Mr. Campbell (Washington) to Mr. A. Henderson

(Received November 16, 7.30 p.m.)

No. 547 Telegraphic [F 5882/64/10]

WASHINGTON, November 16, 1929, 11.55 a.m.

Your telegram No. 578¹ and previous telegrams.

Extraterritoriality.

I informed Under Secretary of State and Assistant Secretary in charge of Far Eastern Department that His Majesty's Government prefer gradual progressive abolition by categories of cases to geographical method. At the same time I spoke in the sense of the last paragraph of your telegram No. 578. Mr. Johnson said that State Department had been informed by United States Minister Peking of his views and those of His Majesty's Government and other interested Powers. Though Department had been considering them no conclusion had yet been reached: Secretary of State himself had not yet considered them. Mr. Johnson said he was not yet convinced that views of United States Minister at Peking were entirely correct. Mr. Cotton promised that action would not be taken nor instructions sent to the United States Minister before November 19 so as to give time for full discussion of your views with me.

¹ No. 126.

No. 131

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 410 Telegraphic [F 5798/64/10]

FOREIGN OFFICE, November 18, 1929, 7.0 p.m.

Your telegram No. 902.¹

Chinese Minister has already been seriously warned that unilateral denunciation would be very foolish and would only poison the atmosphere. I am reluctant to take a more solemn and formal step defiance of which would make us look foolish, but if an opportunity presents itself advantage will be taken of it to repeat the warning with reference to the report quoted in your telegram.

¹ No. 124.

Mr. Campbell (Washington) to Mr. A. Henderson
(Received November 20, 9.0 a.m.)
No. 549 Telegraphic [F 5961/64/10]

WASHINGTON, November 19, 1929, 12.45 p.m.

My telegram No. 547.¹

I discussed His Majesty's Government's plan at length this morning with Mr. Nelson Johnson and left *aide-mémoire*² in the sense of your telegram No. 380 to Peking³ setting out details of plan. In the course of discussion I used arguments against geographical treatment contained in paragraphs 2 and 3 of your telegram No. 576.⁴ Without committing himself, and subject to full consideration and to views of Secretary of State, Mr. Johnson at first sight agreed generally with arguments against geographical abolition (State Department had not received detailed views of United States Minister at Peking on our proposals) and expressed concurrence with much of our plan. He thought it should be possible to find common basis of action.

I again emphasized importance attached by His Majesty's Government to a united front and to the conduct of negotiations in Peking. Mr. Johnson was not able to commit himself on the attitude of his Government on this point. Without going into the matter more closely he was not certain whether, and if so to what extent, United States Government, if requested by Chinese Government to do so, were committed to agree to negotiate here by last paragraph of their note of November 1 in which they say they are 'prepared to enter into negotiations *when convenient to Chinese Government*' (see my despatch No. 211⁵ of November 14th).

I later mentioned point in conversation with Secretary of State, who also said he was not sure whether he might not be to some extent committed to negotiate here, and that Chinese representative here was, he believed, armed with special credentials for the purpose. But he realized importance of preventing Chinese from obtaining a concession from one Power for use in securing one from another and so on.

On the general question of action to be taken with regard to extraterritoriality he had still an open mind and would be guided largely by opinion of Mr. Johnson and Dr. Hornbeck, in the light of whose views he would carefully consider His Majesty's Government's proposals.

¹ No. 130.

² Not printed. This *aide-mémoire*, sent under cover of Mr. Campbell's despatch No. 2146 of November 19, comprised paragraphs numbered 1 to 11 which followed very closely the text of paragraphs 2 to 12 of No. 116. See, however, No. 211.

³ No. 116.

⁴ This reference should probably read 'your telegram No. 577' (No. 126).

⁵ This reference should read 'my despatch No. 2111' (not printed). See, however, No. 108, note 2.

No. 133

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 20, 9.0 a.m.)
No. 931 Telegraphic [F 5989/64/10]

PEKING, November 20, 1929, 1.5 p.m.

My telegram No. 876.¹

French Minister and Netherlands Chargé d'Affaires have received notes from Minister for Foreign Affairs dated November 9 inviting them to proceed to Nanking to start discussion as soon as possible. French Minister informed us at meeting on November 19 (see my telegram No. 929²) that his idea was to adhere to his previous attitude and to ask Chinese first to submit their proposals so that he could refer them to his Government and ascertain their views before agreeing to go to Nanking. In reply to French Minister's enquiry whether we had any objection to his taking that line we all replied in the negative; but I took the opportunity of explaining the nature of verbal message I had, on instructions, caused to be transmitted to Minister for Foreign Affairs that if Chinese preferred to make their proposals at conference table and not in advance my Government would not be averse to such a procedure.

Netherlands Chargé d'Affaires said he would suggest to his Government a similar reply to that proposed by French Minister.

Repeated to Mr. Aveling and Tokyo.

¹ No. 114.

² Not printed.

No. 134

Sir J. Tilley (Tokyo) to Mr. A. Henderson (Received November 22, 4.0 p.m.)
No. 242 Telegraphic [F 6039/64/10]

TOKYO, November 22, 1929, 3.0 p.m.

Your telegrams Nos. 577 and 578 to Washington¹ repeated here yesterday.

I have seen Minister for Foreign Affairs. He is in entire agreement with you about the importance of unity and of negotiations at Peking and nowhere else. He says that Washington has refused separate negotiations.

As regards the general question he has an open mind and has not yet had time to discuss it with Saburi² who is now here. He fully appreciates your objections to the geographical scheme and did not at present see the advantages of the American scheme but presumed that there was some argument in its favour. He seemed to be particularly struck by the arguments that abandonment of rights in the interior would cut at the root of our contention, and that the American plan implied possible resort to force. He is in favour of the appointment of foreign judges but thinks this will meet with very strong opposition from the Chinese unless perhaps they are confined to court

¹ No. 126.

² Japanese Minister in Peking.

of appeal. He discussed the possibility of abandoning jurisdiction in areas where there was satisfactory modern court. I said that your objections held good in case of abandonment by areas but, conversely, you object[ed] to any abandonment except where the court was satisfactory.

I saw Saburi but got very little out of him.

Repeated to Peking and Washington.

No. 135

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 424 Telegraphic [F 6050/64/10]

FOREIGN OFFICE, *November 22, 1929, 9.30 p.m.*

My telegram No. 415.¹

Counsellor of Netherlands Legation informed us today that his Government definitely favoured transfer by subjects, though they thought geographical method might perhaps be combined with it to some extent.

¹ Not printed. This telegram referred to No. 126 and informed Sir M. Lampson that the Netherlands Government would let His Majesty's Government know their decision as soon as possible.

No. 136

Mr. A. Henderson to Sir M. Lampson (Peking)

Nos. 426 and 427 Telegraphic [F 5913/175/10]

FOREIGN OFFICE, *November 23, 1929, 4.40 p.m.*

Your telegram No. 16¹ of May 21.

Minister for Foreign Affairs' reference to Burma-Yunnan frontier disputes. Unless you see any objection you should advert to Minister for Foreign Affairs' suggestion and make a communication to him in following sense. You should, however, await concurrence of Government of India to whom this telegram is being repeated.

Question of Sino-Burmese frontier disputes has been carefully considered in consultation with Governments of India and Burma who would welcome a friendly settlement of outstanding questions. Dr. Wang should be asked to specify districts which he has in mind. While we do not shut out possibility that joint boundary commission may be necessary immediate appointment of such a commission would not be best way to settle disputes since such a body whose work would be largely of a technical nature could evidently not proceed to delimit undemarcated sections of frontier unless furnished with a practical basis for their work in the form of identical or similar instructions

¹ Not printed. This telegram reported that on May 20 Dr. Wang had suggested to Sir M. Lampson the appointment of a joint boundary commission to reach a settlement regarding certain districts in dispute between Burma and China.

as to the general trend of the frontier. In order to establish this basis His Majesty's Government in the United Kingdom and the Government of India are anxious to come to an early agreement with Government of China. Excellent map exists and vast amount of information has been collected by both sides and it is quite probable that if plenipotentiaries of Great Britain and China were to sit round a table and examine material available in a reasonable spirit of compromise they would be able to define amicably most of the frontier in dispute. Since Dr. Wang has raised the question with you it seems most appropriate that a conference to settle the general trend of the frontier on an agreed basis should be held at Nanking.

If a conference is held best hope of agreement may be found to lie in reverting to the spirit of treaties of 1894 and 1897² and proposing that frontier in the two disputed sections should be based on the old political *status quo* by which is meant the position indicated by the approximate boundaries between homogeneous groups of tribes and by any political attachments existing at those dates. This would involve (1) recognition by China of the general line of the Salween-N'maikha Divide north of Manaung Pum in latitude 25° 35' subject to a possible adjustment in the Hpimaw region and (2) a line approximately corresponding to that offered by Scott in 1900³ in the undelimited section in the Wa country between the Namting river and Nalawt.

From your telegram No. 837⁴ of 23rd October, it appears that Central Chinese Government might be disposed to endorse view sometimes put forward by Yunnanese authorities that Irrawaddy triangle viz. territory to west of River N'maikha can be claimed by China. Please consider whether it would not be advisable to inform Dr. Wang at once that there can be no prospect of an agreement if extravagant claims of this kind are seriously advanced.

Repeated to India Nos. 42 and 43.

² These Sino-British agreements relative to the frontier of Burma and China are printed in *British and Foreign State Papers*, vol. 87, pp. 1311-19 and vol. 89, pp. 25-30 respectively.

³ i.e. the line proposed by the British Commissioner on the Burma-China boundary commission set up in accordance with article VI of the agreement of 1897.

⁴ Not printed.

No. 137

Sir M. Lampson (Peking) to Mr. Aveling (Nanking)

No. 357¹ Telegraphic [F 6067/64/10]

PEKING, November 23, 1929

My telegram No. 902 to Foreign Office.²

Following are texts of press messages issued here November 21 (a) by Reuters (b) by Kuowen, both dated Nanking November 20.

¹ This telegram was addressed to Nanking as No. 357 and was repeated as No. 944 to the Foreign Office where it was received on November 23 at 9.0 a.m.

² No. 124.

(a) 'It is learned in reliable quarters that the National Government has decided to issue a declaration on January 1 next announcing abrogation of extraterritoriality in China. A Foreign Office spokesman this afternoon stated that the step does not mean the abrogation of China's treaties with the Powers. The only [*sic*] clauses appertaining to the exercise of extraterritoriality rights in China will be abolished.'

(b) 'According to information from local Chinese circles the Waichiaopu is making preparations for unilateral abrogation of extraterritoriality on January 1 next. This does not mean that the Government has decided to abrogate all commercial treaties with Great Britain, United States, France, Holland, Norway and Brazil. On the contrary, all the provisions of these agreements will remain, except those relating to extraterritoriality. It is stated that this policy has been decided by high diplomatic authorities and will be carried out without alteration.'

2. You should in such manner as you think best at once bring the above statements to the notice of the Minister for Foreign Affairs and endeavour to draw from him some explanation for my information and that of His Majesty's Government. Dr. Wang has time and again emphasized to me his determination to handle all treaty questions in the only proper way and I hesitate to believe that either of the above statements *can* have his endorsement.

Repeated to Foreign Office and Tokyo.

No. 138

Record by Sir V. Wellesley of a conversation with the Chinese Minister
[F 6124/64/10]

FOREIGN OFFICE, November 25, 1929

Mr. Sze, the Chinese Minister, called this afternoon. He began by saying that after a recent interview with me he had informed the Nanking Government that it was no use trying to press us to negotiate separately at this end with regard to the Extraterritoriality question. He had however just received another telegram urging him to make another effort but he knew what my answer would be. He then went on to say that the Nanking Government had decided on the four following points:—

1. To announce the abolition of Extraterritoriality on January 1 and require the submission of all foreigners to Chinese jurisdiction.

2. To establish modern courts at Harbin, Shanghai, Canton, Tientsin and Hankow.

3. To engage foreign legal advisers to be attached to these courts for the purpose of consultation by the judges but without right of interference in the trials.

4. To allow civil cases between foreigners to be tried by foreign courts outside Chinese territory. The Chinese courts would however be prepared

to execute the judgments of such foreign courts if not in conflict with Chinese law or custom.

Nos. 3 and 4 to be subject to revision at the end of two years.

I told Mr. Sze that this was a very different matter from the tentative proposals which he had put forward as a personal suggestion at our last interview,¹ which had led me to hope that the Nanking Government would be open to reason and not go in off the deep end. This, however, showed that they intended to precipitate matters and to force the hands of the Powers. I could imagine nothing more deplorable than the foolhardiness and lack of political foresight which these intentions clearly showed. It seemed to me a very disingenuous proceeding to threaten us on the one hand with these drastic measures on January 1st and on the other to propose separate negotiations with the Powers concerned with little more than a month ahead of us. Such a proceeding was on the face of it manifestly insincere. He knew my views only too well and I did not therefore intend to traverse the ground which we had already covered in our last two interviews. But I would tell him this, that if the Chinese Government wish to poison the atmosphere and to undo all the good which had been done in the last two years to create a friendly and sympathetic attitude towards Chinese aspirations they could have thought of no better way than the course which they now propose to take. I refused to believe that this was China's last word. I begged him to impress on his Government the gravity of the situation which would arise as the result of such ill-advised action. Why could he not urge his Government to meet the Representatives of the Powers in China as soon as possible and put before them the suggestions he had made to me at our last interview as a basis for discussion? I understood his suggestions to be as follows:—

1. The Powers to agree that foreigners should *in principle* be subject to Chinese jurisdiction.

2. That negotiations should be started forthwith with a view to implementing No. 1.

3. A time limit.

That proposal might possibly offer a way out if it provided for gradual surrender and adequate safeguards.

Mr. Sze promised to act on this advice but he added significantly that the Nanking Government regarded him as much too conservative.

I told him that he would be doing his country a good service if he could prevent them from acting in this foolhardy manner. In saying this I was not speaking solely in the interests of this country or the other Powers but of China herself because such action as the Nanking Government proposed to take was apt to act like a boomerang.²

V. W.

¹ See No. 122.

² A summarized report of this conversation was sent to Sir M. Lampson in Foreign Office telegram No. 437 of November 29.

No. 139

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 26, 9.0 a.m.)
No. 951 Telegraphic [F 6108/64/10]

Extraterritoriality.

PEKING, November 26, 1929, 1.50 p.m.

At a meeting of interested heads of Legations on November 25 French Minister read to us his instructions which, while to some extent favouring British proposals, seemed to end by advocating combination of geographical and subject by subject methods.

Dutch Chargé d'Affaires communicated views of his Government which were more definitely in favour of ours.

At my request text of both the above views will be communicated direct at the various capitals.

United States Chargé d'Affaires had no instructions. Japanese Minister is still discussing matter with his Government. We agreed that there seemed no prospect of initiating negotiations with Chinese until discussions now proceeding between the various Governments show more prospect of some common basis for a common programme.

I thought it an opportunity to raise the question of what we should do in the event of partial or total abolition unilaterally by Chinese as from January 1: idea had occurred to me of applying Optional Clause of Statutes [*sic*] of the Permanent Court at The Hague¹ but I was not at present sure (a) whether China was still bound by it and (b) whether we ourselves had yet ratified it. I made it clear that idea was purely my own and did not emanate from London.

There seemed to be a general disposition to regard idea as worth exploring and I undertook to ascertain answers to the two above points before we moved further. Might I be supplied with information as soon as possible?²

We agreed that time was already short and that it was very desirable that we should know in advance just what we should do in the event of such unilateral abolition so that our riposte should be immediately telling.

Repeated to Mr. Aveling and Tokyo.

¹ i.e. Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice, printed in *British and Foreign State Papers*, vol. 114, p. 869.

² See Nos. 148 and 163.

No. 140

Mr. Campbell (Paris) to Mr. A. Henderson (Received December 3)
No. 1594 [F 6289/64/10]

Sir,

PARIS, November 26, 1929

With reference to Lord Tyrrell's telegram No. 153¹ of the 15th November, I have the honour to transmit to you herewith copies of a memorandum from

¹ No. 129.

the Ministry for Foreign Affairs respecting the extraterritoriality negotiations with China. The Ministry's memorandum follows generally the lines foreshadowed in Lord Tyrrell's telegram No. 153, and, as was expected, the French Government favour a kind of compromise between approach by the geographical method and by that of categories of jurisdiction.

2. I have made further enquiries of the Ministry for Foreign Affairs as to the degree of importance which the French Government attach to the initiative in the submission of proposals being taken by the Chinese Government. I am informed that great importance is attached to this, as the French Government fear that if the Powers made proposals in the first instance they would become the prisoners of those proposals, as, if the Chinese refused them, as is probable, the Powers would then be driven to make further concessions at once. In these circumstances, the French Government would prefer that the Chinese Government should take the initiative, even if the proposals first submitted by them are entirely unacceptable. The Ministry for Foreign Affairs are under the impression, from a report received from the French Minister in Peking, that you also are inclined to favour a Chinese initiative, and that an oral communication in this sense has already been made to the Chinese Government by Sir Miles Lampson.² In any case, the Ministry for Foreign Affairs attach importance to an agreement being reached between the Powers on this question of procedure as early as possible.

3. Instructions have already been telegraphed to M. de Martel in the sense of the memorandum enclosed, and he has been directed to discuss the whole question with his colleagues with a view to concert action with them. I was again informed today that the French Government have absolutely no intention of negotiating elsewhere than in Peking.

I have, &c.,

R. H. CAMPBELL

² See No. 120.

ENCLOSURE IN NO. 140

French Ministry of Foreign Affairs to British Embassy, Paris

PARIS, le 25 novembre, 1929

L'Ambassade de Grande-Bretagne à Paris a bien voulu remettre, le 15 novembre, au Ministère des Affaires Étrangères un aide-mémoire faisant connaître les principes généraux qui, dans l'opinion du Gouvernement Britannique, semblent devoir inspirer toute tentative de trouver une solution au problème de la suppression de l'extraterritorialité en Chine.

En remerciant l'Ambassade Britannique de cette communication, dont il a pris connaissance avec intérêt, le Ministère des Affaires étrangères a l'honneur de lui faire savoir que le Gouvernement français, également désireux d'adopter une attitude libérale et amicale à l'égard des aspirations légitimes du peuple chinois, est entièrement d'accord avec le Gouvernement Britannique pour admettre la nécessité d'écarter fermement toute demande chinoise de procéder à l'abandon total et immédiat de l'extraterritorialité. En raison de

l'instabilité de l'administration de la Chine, du caractère rudimentaire de sa législation et de ses institutions judiciaires, dans le fonctionnement desquelles interviennent couramment les autorités militaires, la mise à l'étude de la suppression effective de l'exterritorialité ne peut qu'être subordonnée à l'acceptation, par le Gouvernement chinois, du principe même d'un processus d'évolution graduelle, dont le rythme sera déterminé par l'efficacité des garanties que la Chine consentira à fournir à chacune des étapes du futur régime de transition.

La méthode d'abandon progressif par catégorie de juridiction proposée par le Gouvernement britannique a l'avantage de s'inspirer de considérations juridiques et de conserver le plus longtemps possible les garanties de la juridiction nationale pour ce qui est des matières pénales et du statut personnel. Elle paraît de ce fait au Ministère des Affaires Étrangères devoir mériter un examen des plus attentifs, encore que son adoption puisse créer une situation juridictionnelle compliquée. L'abandon progressif géographique proposé par d'autres Gouvernements paraît plus simple au premier abord, mais il semble difficile que le choix de zones géographiques fasse l'objet d'une décision unanime des Puissances dont les intérêts ne sont pas également développés dans les diverses parties de la Chine.

Pour permettre l'établissement d'une ligne de conduite commune de principe entre les diverses Puissances intéressées, le Ministère des Affaires Étrangères estime préférable de combiner la conception britannique d'abandon par catégorie de juridiction avec celle d'abandon géographique. Cette méthode permettrait de tenir compte en même temps de la nature et de la localisation des intérêts de chaque Puissance et des améliorations effectives de la justice chinoise dans chaque région considérée. Elle pourrait avoir pour effet, suivant les cas, de supprimer l'exterritorialité pour telle catégorie de juridiction dans telle région au fur et à mesure de la création de tribunaux chinois modernes, pour la constitution desquels les Puissances réclameraient des garanties proportionnées à l'importance de leurs intérêts dans la région où ces tribunaux auraient compétence.

Quelle que soit, en définitive, la méthode (géographique ou juridictionnelle) adoptée pour déterminer le processus d'évolution, le Ministère des Affaires Étrangères estime que les cours chinoises appelées, au fur et à mesure de leur organisation, à devenir compétentes à l'égard des étrangers, devraient être des cours modernes chinoises à compétence étendue (*ratione materiae et ratione loci*).³ A ces cours devraient siéger, à côté des juges chinois, des juges étrangers nommés par le Gouvernement chinois et les étrangers devraient avoir le droit de s'y faire représenter par des avocats de leur nationalité. Le processus d'évolution graduelle devrait affecter tout d'abord, comme l'indique le Gouvernement britannique, les procès civils et, après expérimentation du fonctionnement à cet égard des tribunaux modernes chinois définis comme ci-dessus, s'étendre progressivement aux contraventions, puis aux affaires pénales et laisser hors de question les affaires concernant le statut personnel. Il va de soi également que les procès entre

³ i.e. in respect of subject and place.

Français devraient continuer à être jugés par les cours françaises. Enfin, devraient être réservés pour des négociations ultérieures, les problèmes relatifs aux garanties complémentaires de l'exterritorialité proprement dite, tels que l'immunité des taxations, l'inviolabilité des propriétés et des navires, le droit de cabotage, les missions, les concessions territoriales, &c.

Le Ministère des Affaires Étrangères estime que c'est sur ces bases, et sans préjudice des autres conditions prévues dans les notes remises par les Légations intéressées le 12 août et le 1^{er} novembre 1929 au Gouvernement chinois, que devrait avoir lieu la recherche, par les Ministres des Puissances à Pékin, d'un projet de solution du problème de la suppression de l'exterritorialité.

Le Ministère des Affaires Étrangères ajoute qu'il ne croit pas qu'il y ait d'avantage à prendre actuellement l'initiative de faire des offres au Gouvernement chinois et qu'il est préférable d'attendre les propositions précises qu'il aurait à faire.

No. 141

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received November 29, 9.0 a.m.)
No. 974 Telegraphic [F 6213/175/10]

PEKING, November 29, 1929, 2.35 p.m.

Your telegrams Nos. 426 and 427.¹

I have now received concurrence of Government of India but on full consideration I propose since there are so many other questions for discussion not to raise this thorny problem, at all events deferring till next visit to Nanking and then in the absence of special circumstances only if it seems opportune to revert to it. I doubt whether Chinese are yet prepared for serious negotiations and whether Nanking Government have any real knowledge of the problem.

With reference to last paragraph of your telegram No. 427 rights of Burmese have already been reserved locally see Tenguyeh telegram No. 10² and further action at Nanking seems undesirable at all events in advance of offer of a conference.

Repeated to Delhi.

¹ No. 136.

² Not preserved in the Foreign Office archives.

No. 142

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 1108 [F 6218/64/10]

FOREIGN OFFICE, November 29, 1929

Sir,

In the course of a conversation with the Chinese Minister at the House of Commons on the 28th November, Dr. Sze referred to the situation as regards

extraterritoriality in China and the intention which the Chinese Government had announced to abolish extraterritoriality on the 1st January next. I told Dr. Sze that I must deprecate the action proposed by the Chinese Government, since, although His Majesty's Government were fully sympathetic with the aims which the Chinese Government had in view and had announced their liberal intentions in respect of extraterritoriality, the subject was a complicated one and the step contemplated by the Chinese Government could only result in creating confusion.

Dr. Sze said that he appreciated the difficulties of the position and as a personal suggestion threw out the hint that His Majesty's Government might now be prepared to announce their willingness to renounce their extraterritorial rights in China within a given period, not necessarily so soon as the 1st January. He said that this might be a way of circumventing the existing difficulties, and he would be glad to have my views on this proposal.

I told Dr. Sze that his idea required very careful consideration, and that I could not give him an immediate reply, but that I would think the matter over and furnish him with my considered views after looking into the question.

I am, &c.,
ARTHUR HENDERSON

No. 143

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 441 Telegraphic [F 6328/64/10]

FOREIGN OFFICE, *November 30, 1929, 6.0 p.m.*

Extraterritoriality.

In reply to a question in the House on December 2 'whether the Chinese Government have communicated their intention of denouncing on 1st January next the extraterritoriality clauses of the treaties with foreign Powers; and, if so, what action His Majesty's Government propose to take in the matter', the following answer will be returned.

'The Chinese Government have announced their intention to abolish extraterritoriality on the 1st January next. They are aware of our desire to enter into negotiations on the subject of extraterritoriality in a liberal and friendly spirit and that His Majesty's Minister in Peking is endeavouring to initiate discussions. The Chinese Minister has been informed that the denunciation of the extraterritoriality clauses of the treaties would prejudice the prospect of a satisfactory issue. The Chinese Government will doubtless give weight to these considerations and I hope that, in the circumstances, they will not in fact carry their declared intention into execution.'¹

¹ See Parl. Deb., 5th ser., H. of C., vol. 232, cols. 1902-3.

Sir M. Lampson (Peking) to Mr. A. Henderson (Received January 11, 1930)
No. 1723 [F 217/78/10]

PEKING, November 30, 1929

Sir,

I have the honour to acknowledge the receipt of your despatch No. 867¹ of the 3rd September last enclosing a memorandum by Sir J. T. Pratt respecting the problem of Shanghai, which I assume to be the memorandum referred to in your telegram No. 322² of the 17th September.

2. Since then our immediate policy in regard to the negotiations concerning the Provisional Court has been settled, and my observations on the memorandum are, therefore, scarcely required any longer from that standpoint. At the same time, you may wish that I should still comment on it from a wider point of view.

3. While I entirely agree with the view expressed in the memorandum that it is essential to be clear as to the exact nature of the problem we are trying to solve, Sir J. Pratt's statement of the problem does not strike me as doing so; it seems to me too narrow. It is true that some of our trouble arises from the fact that there is no certain co-ordination between the foreign executive and the Chinese judiciary of the International Settlement, a point which was brought out in the recommendation of the Senior Consuls' deputies already in your possession; and I agree that one of our main objects in the present negotiations should be to seek to bridge this gulf—though it remains to be seen how far this will be possible in view of the difficulty of inducing the Chinese to agree to the creation of any joint machinery in the form of a higher tribunal to review and rule on the proceedings of their court. But even if we are successful in this, and no matter what machinery is evolved to span the gulf between executive and judiciary, I am clear that the Shanghai problem will not thereby be solved, as seems to be Sir J. Pratt's view. For, important as the question of the court is, it is only one aspect of the whole problem, namely, how to satisfy the Chinese demand for control over the Settlement without undue prejudice to the foreign interests concerned. Even if we are successful in finding means of establishing a purely Chinese court to take untrammelled jurisdiction over Chinese residents in the Settlement without impairing the maintenance of law and order by the foreign authorities therein responsible for it, we shall not satisfy the Chinese demand for the return of the area to Chinese control, and the main problem will remain unsolved.

4. I should add, having made this point clear, that I am largely in agreement with the views so lucidly set forth in the memorandum, though there are some minor points on which I venture to offer comment in the following sense:—

5. In paragraph 1 it is postulated that the problem of Shanghai is essen-

¹ No. 94.

² No. 97.

tially one of municipal government. I agree that the problem concerns first and last the form of government of the Shanghai area, but I think that to define it as a municipal question is again too narrow a statement. Were the question purely one of evolving a better form of municipal government for the Settlement, it would be comparatively a simple one. The trouble is that it is essentially an international and political problem, turning on the desire of the Chinese to secure, and the reluctance of the foreigners to surrender, control over the Settlement.

6. The dictum in paragraph 3, that the Municipal Council is, in fact, an independent autonomous body not subject to the control of any Government or any higher authority, is, I venture to think, somewhat misleading. The same doctrine is held by the editor of the 'North China Daily News', who has in the past preached to his readers that the future of the Settlement concerns the 'ratepayers' and them alone. The Council are, however, in reality subject to the joint authority of the Governments of the interested Powers and China, from whom they acquire their powers and status, and by agreement between whom those powers and status can be altered. The difficulty admittedly is to bring this joint authority to bear when occasion demands, owing to conflict of view between the parties concerned.

7. It is inferred in paragraph 5 that Sir F. Whyte's plan falls to the ground because it postulates a static solution of the problem. I should prefer to say that it postulates the possibility of satisfying the Chinese with an interim solution for a definite period, but this, I admit, is also a very doubtful possibility.

8. I cannot altogether follow the argument in paragraph 9, that, if there were a Chinese majority on the Council, the foreign minority would still exercise control. Whether this would be the case or not would surely depend on the nature of the authority, whether foreign or Chinese, behind the Council. If the foreign Powers retained this ultimate authority in their own hands, a foreign minority on the Council would certainly retain control, as would happen if, for instance, while retaining our lease of, say, the Tientsin Concession unimpaired, we created a council with a Chinese majority. But in the case of the International Settlement at Shanghai, where, instead of the area being owned by a foreign Power or Powers, only the power of local municipal government is delegated to the foreign residents, the creation of a body of ratepayers and a council with a Chinese majority must, it seems to me, result in Chinese control—and probably disaster.

9. I question whether the statement made in paragraph 12, that the Provisional Court under the agreement of 1926 has been the scene of almost constant friction, is entirely true. Friction there has certainly been, but it has, I fancy, been exaggerated in the foreign press, which hoped, by emphasising the shortcomings of the Court, to secure, when the time for revision of the agreement arrived, an increase rather than a diminution in the foreign control over its operation.

10. I agree with the views expressed in paragraphs 13, 14 and 15 in regard to the proceedings of the Court and its judges, and in the statement that there

is little evidence to show that it has been used to undermine the foreign administrative control over the Settlement. The danger is that it might be so used, unless some adequate check on its activities, in the form of some system of 'watch-dogs', is devised. As regards paragraph 18, I have a feeling that it is not so much the system of consular deputies in itself which has been a failure as the way in which the system has been worked. With regard to the reference in this paragraph to my dictum that 'we are not concerned with the protection of Chinese interests from the jurisdiction of Chinese courts', I do not think we can altogether leave it to the Council to decide how far this formula can be accepted or rejected.

11. The above comments concern, however, in the main, points of detail, and, while I am in general agreement with the views and conclusions of the memorandum, my main criticism is, I repeat, a criticism rather of the point of view from which it is written, a point of view which is summed up in paragraphs 17 and 21, that the whole problem arises out of the gulf between the executive and the judiciary, that its crux is the Provisional Court, and that the future of the Settlement depends on the result of the present negotiations on the subject. I agree that these negotiations are of the greatest importance and that their failure may have grave results; but a solution of the problem of the Court will not dispose of the major issue of the future of Shanghai, i.e., satisfy the Chinese drive for control over the International Settlement. I would venture to say that the memorandum concentrates rather on the immediate problem of the moment, and that the real problem, the problem of the future, lies in the devising of means whereby the authority behind the administration of the area is to pass from foreign into Chinese hands by relatively gradual methods without undue prejudice to the immense foreign interests concerned and without wrecking the work of the past fifty years which has brought Shanghai to its present level of importance as a world port and the leading commercial centre of the Far East.

I have, &c.,

MILES W. LAMPSON

No. 145

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received December 1, 9.0 a.m.)¹

No. 980 Telegraphic [F 6241/64/10]

PEKING, December 1, 1929, 12.40 p.m.¹

Part I

I have received reliable (? information)² that Chinese Government do contemplate abolition of extraterritoriality on January 1. Meanwhile Chinese

¹ These times of despatch and receipt refer to Part I only. Part II was despatched at 4.45 p.m. and received at 4.0 p.m. on December 1.

² The text is here uncertain.

press reports from Nanking state that Chinese Ministers in London and Washington are being instructed to inform British and United States Governments of this decision and to request opening of negotiations before that date.

2. We must therefore seriously consider the situation with which we shall be faced if Chinese Government carry out their intention and make up our minds in advance as to (a) what is to be our retort to any such Chinese declaration, (b) to what lengths we are prepared to go in maintenance of extra-territorial rights of our nationals.

3. I trust we *shall* be prepared to defend with all means at our disposal including force persons, liberties and properties of British subjects if and when endangered by Chinese action taken in disregard of our extraterritorial rights *provided circumstances are so as to render protective measures practicable with means at our disposal?*

On the other hand I presume His Majesty's Government are *not* prepared to consider at any rate to begin with resort to sanctions even under authority of League of Nations to uphold principle of sanctity of treaty rights until modified by bilateral negotiation.

4. If these two assumptions are correct, our retort to any unilateral abrogation should be prompt, brief and to the point; its tone and terms must naturally be governed by nature of Chinese denunciation but it might run somewhat as follows.

5. We refuse to admit China's right to abrogate treaty provisions unilaterally. We have already clearly defined our attitude towards problem of extraterritoriality and declared our readiness to enter into discussions. But until question of principle raised by China's high-handed action has been cleared up whether by friendly discussion or . . .³ it is clearly useless and undesirable to consider entering upon fresh agreements whether relating to extraterritoriality future concessions or any other outstanding questions, and any negotiations already initiated must be broken off. As shown by Chinese action such agreements are liable to be treated as so many scraps of waste paper. In the meantime we shall continue to regard extraterritorial rights of British nationals as fully in force and shall afford all necessary protection against their violation.

6. Reply should also include any decision reached as a result of examination now in progress of a possible resort to League of Nations or Permanent Court under Optional Clause. It would be most helpful if I might be informed as soon as possible of positions of His Majesty's Government and Chinese Government with reference to the latter and how suggestion outlined in my telegram No. 951⁴ is regarded. If, as I hope, there is something in it, we should have all the machinery ready to put in motion the moment the time comes.

7. Above pre-supposes definite abrogation but issue may not be so clear-cut and China's declaration may not be in such a form as to make proposed retort *immediately* applicable. For instance she may before January 1 merely announce, as in the case of Swedish treaty, that extraterritorial provisions of

³ The text is here uncertain.

⁴ No. 139.

treaties are now 'inapplicable' coupling such announcement with a request for immediate negotiations so that a new régime may come into force January 1. This would leave it in doubt whether after January 1 she considered existing rights abrogated irrespective of opening of negotiations. It would in short be capable of one interpretation by us and of another by Chinese. In such event I trust we should not be lured into negotiations without making our interpretation quite clear. Our reply might be to welcome negotiations and undertake to begin them as soon as practicable, i.e. after (? before)⁵ January 1 if possible but on explicit understanding that our existing rights were not thereby prejudiced and remained unimpaired until a new agreement has been reached. If Chinese then or later persisted in regarding them as abrogated, the way would be clear for adoption of course suggested in paragraphs 5 and 6.

Part II

8. As to practical steps we are prepared to adopt for protection of our rights, see second paragraph (*b*), it is just possible that Central Government may intend that their abrogation of extraterritoriality should be at least to start with a paper one (as in the case of Japan and Belgium). But even so there is grave and real danger that local authorities at places like Hankow may take any such declaration as a licence to treat foreigners as they like. Even the Central Government themselves might be tempted to do so if they get away with their unilateral abrogation unchallenged.

9. While actual measures of protection must depend on circumstances of each case, I submit the following general plan. British shipping must unquestionably be protected against any violation of existing extraterritorial rights where our naval forces are on the spot and able to take effective action. For instance if Chinese sought to commandeer or seize a British ship or arrest British subject on board British ships such⁶ seizure or . . .⁷ should be prevented by His Majesty's naval forces if necessary by force. Action on shore may be less easy but it should equally be taken where circumstances are such that we can resist effectively. Any such protective measures would be strictly limited to direct action confined to immediate objective, e.g. rescue of a British subject or protection of his person or his property against arrest or seizure including violation of British premises as and where accessible to us. If that objective were beyond immediate reach of forces at our disposal, question of further action involving anything in the nature of sanctions would of course be a matter for full reference to His Majesty's Government.

10. Note that under his existing instructions Commander-in-Chief can only take immediate action where lives of British subjects are definitely in danger or where there has been deliberate or wanton destruction of property.

11. I recognize that amongst difficulties with which we may be faced is danger of British subjects deliberately trailing their coats and provoking

⁵ This suggestion was made in the Foreign Office.

⁶ Another text here read: 'or board a British ship'.

⁷ The text is here uncertain. It was suggested in the Foreign office that the word 'arrest' had been omitted.

incidents. Such cases would have to be treated on their merits at the discretion of His Majesty's diplomatic, consular and naval authorities if necessary after reference home.

12. While it is obviously not possible to have the whole thing cut and dried in advance, I should be glad to be in a position to issue in good time as clear instructions as possible to Consuls. I should therefore be grateful for an early indication of the views of His Majesty's Government.

13. Whilst we should be prepared to act alone, if necessary, every effort should be made to secure common action by interested Powers. I need not emphasize extreme shortness of time if this is to be achieved. For tactical reasons it is most desirable to start negotiations with China before January 1, if only to deprive her of chance of justifying her denunciation on plea of our dilatoriness in giving effect to our promise to negotiate. And here it occurs to me that if, as seems likely, the Americans decide to negotiate in Washington, it might be no bad thing to do likewise in London. The Chinese would gain face, atmosphere would be calmer and more detached and, above all, best legal advice would be available and heavier guns could be brought to bear, if Chinese are obstreperous, in form of direct communications and admonitions from Secretary of State for Foreign Affairs.

14. I am not an alarmist and do not wish to incur charge of making heavy weather, but I can claim to have some knowledge now of the situation here and of Chinese psychology: if China gives effect to intentions with which she is credited and gets away with it, it is my considered opinion that an issue will have been raised having widest implications. I can only beg therefore that most serious and earliest possible attention may be given to considerations set forth in this telegram.

Repeated to Tokyo, Mr. Aveling, Hong Kong for the General Officer Commanding and Commander-in-Chief.

No. 146

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received December 1, 11.30 a.m.)

No. 981 Telegraphic [F 6274/64/10]

PEKING, December 1, 1929, 12.45 p.m.

Following for Sir V. Wellesley.

Private source referred to in paragraph 1 of my telegram No. 980¹ is Mr. M. M[a]cDonald² who saw the Minister for Foreign Affairs when passing through Nanking. In reply to Mr. M[a]cDonald's enquiries whether the Chinese Government was finally committed to abolition of extraterritoriality on January 1, Wang replied 'Yes certainly' but added in reply to further

¹ No. 145.

² Mr. Malcolm MacDonald was at this time M.P. for the Bassetlaw Division of Nottinghamshire.

enquiries that no immediate action would be taken if negotiations were already under way. Wang further said that the idea of foreign co-judges would be unacceptable and explained his own view, namely, six special courts in appropriate centres with foreign trained judges to whom would be attached foreign judicial advisers with power of reviewing cases and judgments before the latter were announced.

Repeated to Tokyo and Mr. Aveling.

No. 147

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received December 1, 5.40 p.m.)

No. 983 Telegraphic [F 6242/64/10]

PEKING, December 1, 1929, 10.30 p.m.

Your telegram No. 437¹ does not alter recommendations submitted in my telegram No. 980².

2. It is repugnant to all one's preconceived ideas that one friendly Government should be allowed to notify another (? ourselves)³ of their 'decision' unilaterally to abolish a right formally conferred by treaty upon the other. To do so surely cuts at the root of all normal intercourse between friendly States. With all deference would it not be wiser sharply to inform Chinese Minister that the Secretary of State must refuse to take cognizance of anything so irregular as his statement of November 25 to Sir V. Wellesley?⁴

3. Should this idea be regarded with favour, it may entail some alteration or addition to the proposed answer to the Parliamentary question of December 2—my (? your)⁵ telegram No. 441.⁶

4. The real issue for the moment seems to be whether, in face of this breach of faith by China, His Majesty's Government can still contemplate entering upon any negotiations with her regarding extraterritoriality until her attitude is modified. I suggest that this fundamental point might be profitably discussed as soon as possible direct with Washington and Paris. I cannot believe that if all three Governments adopt that attitude it could fail to shake China. Japan's position, juridically, is somewhat different, but it would certainly be desirable to keep her fully informed.

Repeated to Tokyo and Mr. Aveling.

¹ Not printed. See No. 138, note 2.

³ The text is here uncertain.

⁵ The text is here uncertain.

² No. 145.

⁴ See No. 138.

⁶ No. 143.

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 443 Telegraphic [F 6108/64/10]

FOREIGN OFFICE, *December 2, 1929, 6.0 p.m.*

Your telegram No. 951.¹

I will deal with proposed application to The Hague in a subsequent telegram² but assuming that this is a possible course of action I fear it will merely amount to a gesture designed to put China in the wrong in the eyes of the world. Belgium's experience in a similar case³ seems to indicate that it will have scant effect on the Chinese and that [it] will be of little avail in protecting our interests in China.

We are, I understand, agreed that the best hope of averting the threatened unilateral denunciation of extraterritoriality lies in starting serious discussions before January 1. I doubt whether it would be wise to wait any longer for the Powers to work out a common programme. It is doubtful whether further preliminary discussions will bring us any nearer to a united front than we are now. Our proposals evidently appeal to the Powers on their merits but America even if she adopts our line will probably do so independently and refrain from anything that savours of joint action; Japan will not show her hand and France will put forward impossible proposals designed in her own supposed interests. Should we not therefore now take the lead on the basis of our proposals?

The present attitude of marking time and hanging back may have led the Chinese to believe that nothing short of a bombshell in the shape of unilateral denunciation will induce the Powers to come to grips with the question. I suggest therefore for your consideration that you should lose no time in beginning the exploratory discussions with Dr. Wang referred to in Mr. Aveling's telegram No. 225.⁴

You should in any case warn your colleagues at once that it will hardly be possible to wait till greater measure of agreement (it is already considerable) has been reached and point out that in the last resort since treaties are not multilateral it will not be possible to resist a Chinese demand for negotiations with each Power separately. The united front, to which we attach importance, can in that case only be represented by consultation behind the scenes between Powers concerned other than China.

¹ No. 139.

³ See Introduction, section headed 'Treaty Revision'.

² See No. 163.

⁴ See No. 120.

No. 149

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 2, 5.0 p.m.)
No. 988 Telegraphic [F 6295/64/10]

PEKING, December 2, 1929, 10.5 p.m.

Following from Nanking:—

Addressed to Peking No. 250; repeated to Shanghai for Mr. Aveling No. 38.

Extraterritoriality.

Dr. Wang asks me to tell you that inasmuch as he has heard from Alfred Sze by telegram that wish of Foreign Office is that extraterritoriality question should be dealt with in China, he would like to know whether you have heard from Foreign Office as to these wishes.

If you have, he would have no objection to having it [*sic*] held here and would you ask His Majesty's Government to appoint delegate as soon as possible as days are getting very few before January 1.

Dr. Wang would have preferred London to relieve himself of extra heavy work of which he has much on his hands and he has informed Sze very fully on the subject but he will not of course persist in this idea.

No. 150

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 1121 [F 6315/64/10]

FOREIGN OFFICE, December 2, 1929

Sir,

In the course of a conversation with the Chinese Minister on the 2nd instant at the House of Commons, I drew Dr. Sze's attention to a statement that I had that afternoon made in the House in reply to a question put to me by Lieutenant-Colonel James [*sic* ?Mr. Godfrey Locker-Lampson] in regard to the announcement by the Chinese Government of their intention to abolish extraterritoriality on the 1st January next.¹

I emphasised to Dr. Sze our desire to enter into negotiations in a liberal and friendly spirit with a view to finding a solution at the earliest possible moment, but I must point out to him how very prejudicial would be the denunciation of the extraterritoriality clauses of the treaties as now contemplated by the Chinese Government.

I asked Dr. Sze to impress upon his Government the importance of giving weight to the considerations I had urged upon him.

I am, &c.,
ARTHUR HENDERSON

¹ See No. 143.

Note communicated by the French Ambassador

[F 6276/64/10]

AMBASSADE DE FRANCE À LONDRES, le 2 décembre, 1929

Par note datée du 26 novembre dernier, le Ministre de Chine à Paris a annoncé 'l'intention du Gouvernement chinois de voir supprimer à partir du 1^{er} janvier 1930 les privilèges d'exterritorialité en Chine' et il a prié la [sic] Gouvernement français de désigner un plénipotentiaire pour entrer en négociations à cet effet.

M. Briand compte répondre très prochainement au Ministre de Chine à Paris en lui rappelant l'obligation qui incombe à la Chine de ne chercher à résoudre le problème de l'exterritorialité que par des moyens pacifiques et par des méthodes juridiques, ce problème soulevant essentiellement des questions de droit et touchant aux statuts des personnes et des biens. On attirera l'attention sur la position prise par les notes françaises des 9 octobre 1928, 10 août et 1^{er} novembre 1929 et sur ce fait que le Ministre de France en Chine est déjà en rapport avec le Gouvernement chinois au sujet de cette affaire. Il n'est pas possible de fixer pour la solution de ce problème, une date arbitraire que rien ne justifie et cette solution ne peut intervenir que sous forme d'un accord par consentement mutuel entre la France et la Chine. M. Briand ne pourrait d'ailleurs donner son consentement à la suppression immédiate et totale de l'exterritorialité, car les garanties accordées aux Français en Chine par les traités de 1858 constituent un ensemble de dispositions d'ordre juridique que l'on ne saurait modifier sans adopter un processus d'évolution graduelle et sans prévoir les conditions de fait et de droit à la réalisation desquelles toute révision du régime actuel doit être subordonnée conformément à l'article 40 du traité de 1858. M. Briand conclura qu'il ne doute point de l'adhésion du Gouvernement chinois à sa manière de voir et de sa volonté de résoudre exclusivement par des moyens pacifiques et juridiques une aussi importante question de droit.

Les Ministres à Pékin ont suggéré l'application des articles 13 et 15 du Pacte de la Société des Nations au cas éventuel d'une dénonciation des traités. M. Briand fait étudier cette suggestion à laquelle, à première vue, il préférerait la procédure de la Cour Permanente de Justice Internationale.

En chargeant M. de Fleuriau de communiquer ce qui précède au Secrétaire d'État pour les Affaires Étrangères, M. Briand le prie de marquer qu'il croit le moment venu d'attirer l'attention du Gouvernement chinois sur la responsabilité qu'il encourrait s'il prétendait résoudre autrement que par les procédés pacifiques et juridiques le problème de l'exterritorialité.

Mr. Campbell (Washington) to Mr. A. Henderson
(Received December 4, 9.0 a.m.)

No. 569 Telegraphic [F 6317/64/10]

WASHINGTON, December 3, 1929, 3.17 p.m.

My telegram No. 549.¹

On November 30 I expressed again to Assistant Secretary of State the hope that I might soon receive the views of United States Government on your proposals for dealing with question of extraterritoriality and your desire for united front. Mr. Nelson Johnson said he had been considering the matter carefully and had prepared memorandum but had not been able to discuss matter with the Secretary of State owing to his time having been so occupied with naval question and Chinese-Soviet dispute and to his absence for Thanksgiving holiday. He hoped to discuss the question very soon and promised to let me know as soon as any decision was reached.

Yesterday morning Associated Press telegram from Shanghai quoted a Kuomin news agency at Nanking report to the effect that by an agreement reached between Chinese Minister at Washington and State Department negotiations for abolition of American extraterritoriality privileges in China would be opened in Washington on February 12.

I called on Mr. Nelson Johnson in the afternoon and asked him whether the report was true and if so whether the date given for the opening of negotiations was correct, as in that event it would seem that National Government did not intend unilateral denunciation of extraterritoriality on January 1 at least as far as the United States were concerned. He gave me the following information.

In the first place United States Government definitely felt they were committed to discussions here, if the National Government so wished, by sentence in their note of November 1 last referred to in my telegram under reference. When therefore Mr. Wu had asked him on November 21² whether United States Government were ready to discuss question with him he had not felt able to reply that no discussions could take place here but he had said that if Chinese Government were asking for immediate total abolition the answer was that they could not have it. Mr. Wu in reply had pointed to last sentence of Chinese Note to the United States Government of September 5³ which talks of 'arrangements whereby extraterritoriality will be abolished to mutual satisfaction of both Governments'. This taken in conjunction with expression in United States Government's note of August 10⁴ of their readiness to negotiate 'with a view to devising method for gradual relinquishment' was intended to convey Chinese acceptance of gradual abolition. Asked whether

¹ No. 132.

² For this conversation see *Foreign Relations of the United States 1929*, vol. ii, pp. 626-7.

³ Printed op. cit., vol. ii, pp. 604-6.

⁴ Op. cit., vol. ii, pp. 596-9.

he had proposals to offer Mr. Wu said that he had not. Mr. Nelson Johnson said that in that case United States Government must have time for consideration. But he was ready to carry on conversations in the hope of finding a basis for serious negotiations. He did not look on present discussions in the light of negotiations. Mr. Nelson Johnson supposed that Mr. Wu had reported this to his Government who had published the information in the form quoted above for political purposes. He could not understand mention of February 12 or any other date; there had been no question of any dates.

By showing readiness to begin conversations when Chinese Minister had approached him and by continuing them Assistant Secretary said he hoped to prevent unilateral action by the Chinese on January 1. I said that was reason why you were most anxious for early reply from United States Government.⁵ He promised to do his best. He personally agreed with many of your suggestions.

While the United States Government felt committed to negotiations in Washington he was anxious for you to know he fully realized importance of interested Powers following as nearly as possible a common line. United States Government would inform His Majesty's Government at once of anything which as a result of their own deliberations or of conversations with Mr. Wu seemed to offer useful contribution to solution of problem. His Majesty's Government he hoped would continue to act similarly *vis-à-vis* the United States Government.

⁵ i.e. to the message transmitted in No. 126.

No. 153

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 3, 3.5 p.m.)

No. 989 Telegraphic [F 6316/64/10]

PEKING, December 3, 1929, 6.20 p.m.

Your telegram No. 443¹ has crossed my telegrams 980² and 983³ pending replies to both of which I am suspending all action. But for the Chinese Minister's statement of November 25⁴ I should have concurred at once in your idea of forcing the pace and initiating discussions at Nanking as soon as possible. But to do so now in the light of the statement is to dance to the crack of the Chinese whip, see Sir V. Wellesley's observations to the Minister, and will certainly be so understood by every Chinese. For the Powers to rush to Nanking at the sound of that whip is to court further indignities and more far reaching demands. In this connexion my United States colleague fully concurs.

Meanwhile he informs me that there is no truth in the report that the State Department have opened negotiations with Chinese Minister at Washington. Whilst he does not disguise his own opinion that they may be

¹ No. 148.

² No. 145.

³ No. 147.

⁴ See No. 138.

tending that way, all he knows for certain is that they have decided nothing so far as to the time and place. I confess the more I think of it the stronger do the arguments seem to be in favour of negotiations in London if so be that America decides on negotiations in Washington.

Repeated to Mr. Aveling and Tokyo.

No. 154

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 449 Telegraphic [F 6241/64/10]

FOREIGN OFFICE, *December 4, 1929, 12.45 p.m.*

Your telegram No. 980.¹

1. I gather that you consider that there are three possible situations with which we may be faced: (1) unilateral denunciation coupled with intention to make denunciation effective, (2) unilateral denunciation coupled with acquiescence in continued enjoyment of our extraterritorial rights, (3) same as (2) but degenerating into (1) if local officials and/or Central Government should be encouraged by lack of firmness on our part.

2. The measures which you propose should be taken in defence of our interests in any of the hypothetical sets of circumstances that may arise will take time for consideration. Time, however, would appear to be of the essence of the problem. I agree with the view expressed in paragraph 13 of your telegram under reference that negotiations should be started before the 1st January. That was the policy I proposed to you in my telegram No. 357² and it was in pursuance of that policy that you conveyed a message to Dr. Wang that you hoped to initiate discussions with him before the end of the year (see your telegram No. 876)³.

3. It seems clear that we shall not know definitely what is in the mind of the Chinese Government until negotiations have actually begun. It seems unlikely that discussions with the Chinese Minister in London will give us any definite guidance on that point. Moreover His Majesty's Government have strongly urged the Governments of the interested Powers to refuse to negotiate anywhere but in China (see my telegrams Nos. 577 and 578 to Washington⁴) and negotiations could not therefore be initiated here without first making explanations at the various capitals involving further delay. I am also of opinion that negotiations on the lines of my telegram No. 380⁵ would involve consideration of so many issues of a highly technical and intricate nature that they could not be satisfactorily conducted anywhere but on the spot. Further reasons for this conclusion will follow.

4. The present situation is of so delicate and uncertain a character and contains so many dangerous possibilities that it would appear impossible for it to be satisfactorily handled unless you are in direct personal touch with the

¹ No. 145.

² No. 102.

³ No. 114.

⁴ No. 126.

⁵ No. 116.

Government to which you are accredited. I suggest therefore that you should proceed immediately to Nanking and initiate discussions with Dr. Wang. Repeat to Tokyo.

No. 155

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 5, 9.0 a.m.)
No. 992 Telegraphic [F 6346/3/10]

PEKING, December 5, 1929, 1.35 p.m.

Following received from Nanking:

Addressed to Peking No. 255 of December 2 and copied for Mr. Aveling telegram No. 42.

Dr. Wang told me tonight that he had made a public statement to the effect that in taking post of Minister for Foreign Affairs he had set himself to accomplish two things, (1) secure tariff autonomy and (2) the abolition of extraterritoriality. He had stated that if he failed he alone assumed full responsibility and took all the blame and they must find a better man.

He added party were pressing keenly and a failure now would mean plenty of trouble next year and probably a combination between communists, re-organisationists and ex-militarists ending most likely in the downfall of the Government but, as usual, he was optimistic and added that he was receiving very good messages from Alfred Sze who reported that Mr. Henderson's attitude was most sympathetic; also the graceful action of Japan as regards representation on Provisional Court revision delegation was encouraging.¹

¹ See *Foreign Relations of the United States 1929*, vol. ii, p. 719.

No. 156

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 5, 11.0 a.m.)
No. 996 Telegraphic [F 6344/64/10]

PEKING, December 5, 1929, 4.45 p.m.

Your telegram No. 449,¹ paragraph 4.

I hold myself in readiness to start for Nanking at once unless view submitted in my telegram No. 989² influences your decision. I shall await reply before starting.

Meanwhile direct travel southward may be impeded by recent mutiny at Pukow on Tientsin-Pukow railway (see my telegram No. 994³).

¹ No. 154.

² No. 153.

³ Not printed.

I submit however that it would be most desirable first to know American reaction to Chinese declaration to abolish on January 1 if made simultaneously at Washington.

It might be embarrassing if I hurried to Nanking and initiated independent negotiations whilst America held back as a result of Chinese action.

No. 157

*Mr. A. Henderson to Sir M. Lampson (Peking)
No. 452 Telegraphic [F 6316/64/10]*

FOREIGN OFFICE, *December 5, 1929, 6.40 p.m.*

Following from Secretary of State.

Personal.

You will appreciate that I am called upon to make a decision of great importance and the object of my official telegram No. 451¹ of today is to elicit from you views on all the considerations which seem to me to be involved before coming to a decision on your recommendation to transfer the negotiations to London.

¹ No. 160. Telegrams 451 and 452 were despatched in reverse order.

No. 158

*Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 5, 1.50 p.m.)
No. 998 Telegraphic [F 6350/64/10]*

PEKING, *December 5, 1929, 7.0 p.m.*

Your telegram No. 437.¹

On November 26 Chinese Minister at Paris addressed a note to the French Government informing them of 'intention' to suppress extraterritoriality on January 1 and asking them to appoint a plenipotentiary.

In notifying my French colleague of the above M. Briand stated his intention of informing Chinese Minister 'within a few days' that it was impossible to admit this arbit[r]ary action and that French Government were unable to consent to abolition coupled with a reasoned lecture on the irregularity of the step.

M. Briand further informs my French colleague that pertinent Articles of Covenant were being examined but that he considers it preferable to invoke 'optional clause'.

I have told French Minister the general position as far as I am concerned and that I await replies to my various telegrams before moving further. All five of us meet tomorrow night to exchange views.

Repeated to Tokyo and Mr. Aveling.

¹ See No. 138, note 2.

No. 159

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 453 Telegraphic [F 6317/64/10]

FOREIGN OFFICE, *December 5, 1929, 7.25 p.m.*

Washington telegram No. 569.¹

Sentence in United States note of November 1 referred to in paragraph 4 of telegram under reference merely binds United States Government to negotiate *when* convenient to the Chinese Government. We cannot understand why Mr. Johnson should consider United States Government is committed to negotiate in Washington except on the hypothesis that the State Department are anxious to commence negotiations or discussions as the only effective method of preventing unilateral denunciation on January 1 but cannot entrust negotiations to United States Minister partly because his views are opposed to theirs and partly because he is shortly vacating his post. If, as I understand, Mr. Johnson is to succeed him he may contemplate carrying out policy of the State Department in negotiations to be conducted by himself in China, but to be started in Washington.

Do you think this interpretation is correct?

Repeat to Tokyo. Repeated to Washington.

¹ No. 152.

No. 160

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 451 Telegraphic [F 6316/64/10]

FOREIGN OFFICE, *December 5, 1929, 7.30 p.m.*

My telegram No. 449.¹

The reasons which appear to us to make it imperative that negotiations for the gradual and progressive abolition of extraterritoriality should take place in China rather than in London are as follows:—

2. Unless we are to surrender entirely to the Chinese demands and acquiesce in whatever conditions they may impose the principal object of the negotiations will be to work out in respect of each section of jurisdiction that the Chinese may take over the arrangements which in the interests of order and justice should be made with a view to protecting foreigners against the arbitrary action of underlings acting possibly on the orders of irresponsible militarists. Safeguards that would be really effective can only be thought out by persons fully cognizant of and in daily personal touch with local conditions. There would have to be constant consultation with the local representatives of interests affected. The Chinese negotiators would similarly have to consult the Government organs charged with the carrying out of the new arrangements before they could agree to them.

¹ No. 154.

3. The transfer of any portion of civil jurisdiction would involve careful consideration of the extent to which extraterritoriality in its administrative aspect would be affected as regards such matters as service of process, enforcement of taxation, domiciliary visits, immunity of British shipping and many others. Of these shipping is perhaps the most important for any hasty action which resulted in making it impossible for foreign shipping to participate profitably in the China coast trade would inflict even greater injury on the Chinese than on us.

4. The assumption by the Chinese of any degree of civil jurisdiction over foreigners in the International Settlement at Shanghai must raise problems of peculiar complexity affecting the interests of many Powers by reason of the fact that the executive authority is in the hands of the Municipal Council. These problems can only be solved by maintaining the closest personal touch during the whole course of the negotiations with the authorities both foreign and Chinese who will have to co-operate in the working of the new arrangements.

5. The crux of the whole complex of problems with which we are faced in Shanghai is the Provisional Court. Any transfer of civil jurisdiction over foreigners must necessarily affect the status and jurisdiction of the Provisional Court. There will therefore be a close connexion and some overlapping between the negotiations over Extraterritoriality and those over the Provisional Court for the decisions reached at one set of negotiations must very greatly affect the arrangements agreed to at the other. Negotiations over the Provisional Court have already commenced in Nanking and this appears to provide an additional and most compelling reason for not conducting extraterritoriality negotiations anywhere but in China.

6. Lastly I cannot avoid the feeling that the British communities in China should be more ready to accept with a good grace a new arrangement reached after negotiations conducted on the spot by you. They have full confidence in you and they know that you understand local conditions and sympathise with their special difficulties. If, however, the negotiations are conducted here they might feel that the Chinese, taking advantage of our ignorance of local conditions, may succeed in deceiving us into making unnecessary surrenders that may render their position impossible.

7. If you disagree with the validity of these arguments or do not concur in the conclusions which I have reached please telegraph your views fully and urgently as I should deprecate any further delay in commencing discussions with the Chinese Government.

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received January 4, 1930)

No. 1745 [F 76/76/10]

PEKING, December 5, 1929

Your telegram No. 419.¹

With some reluctance, seeing that I cannot but regard this discussion as altogether premature, I submit the following views, omitting as instructed all reference to indemnity question, which, however, I again wish to emphasise that I regard as being at present the really important consideration.

As regards objections to Consortium, apart from fact that Chinese have always been and are still hostile to it, gravamen of complaint from our point of view appears to be that it is liable to impede activities of British firms capable and desirous of participating in schemes of industrial reconstruction in China, and that the system of open tender in connexion with industrial loans may at present time operate disadvantageously to the interests of British manufacturers. It should be clearly realised that (? second)² point can only apply to *industrial* loans.

The Consortium, apart from (? its)³ most important and primary role of preserving us against dangers⁴ of financial schemes with a political complexion (Nishihara, &c.), still may prove to furnish a lever by means of which China may be to some extent prevented (much more I fancy than memorandum implies) from borrowing new money without first arranging to pay her old debts.

Logical conclusion to my mind is that if anything at all is to be done at present (which I repeat will be against my advice and judgment) it should in the first instance be towards regaining our freedom of action in regard to industrial enterprise, leaving Consortium untouched as regards administrative loans and debt consolidation. There is no doubt that Chinese aversion to 'group treatment' on the part of foreign financial interests is particularly strong as regards industrial enterprises such as railway projects.

Ultimate solution may be when time for action comes for Governments concerned to disengage themselves from operation of Consortium, leaving banking groups to carry it on to whatever extent they consider desirable as a purely business proposition. Assuming that objects of Consortium are now essentially financial, it is banks and their money markets which are or should

¹ Not printed. This telegram of November 21 stated in particular: 'The Foreign Office memorandum of August 21 [enclosure in No. 95] was prepared with the object of enabling us to consider our Consortium policy solely on its own merits without reference to the Boxer Indemnity or any other question with which it might be temporarily entangled'. Sir M. Lampson was requested to send his 'considered views on the same basis' to supplement those expressed in No. 125.

² The text as originally received on January 4 was here uncertain. A confirmatory copy received on January 22 here read: 'that these points'.

³ The text as originally received was here uncertain. This word was correctly suggested on the file copy.

⁴ The confirmatory copy here read: 'preserving the open door against the dangers'.

be judges of the situation. Chinese cannot properly object to foreign banks following a particular line in connexion with their financial transactions with Chinese Government. Intervention of foreign Governments in such matters may now be more of an anachronism than it was when Consortium was founded and naturally it rouses Chinese resentment.

Having said so much I must repeat that I see no advantage and on the contrary more⁵ danger in stirring up this sleeping dog just now when we have so many other and much more pressing troubles on our hands. While in agreement with many of the views expressed in the memorandum enclosed in your despatch No. 879,⁶ these deal mainly with theoretical side, and (if we are to exclude indemnity question) I cannot see that Consortium has so far done anyone, including ourselves, any concrete harm, on the contrary, I believe it has done good if only in a negative way. Memorandum gives instructive account of dissatisfaction of British interests with policy of His Majesty's Government in connexion with old declaration⁷ in 1911-12; but as it has turned out, effect, if any, of restrictions then imposed on British enterprise has probably been beneficial in preventing further additions to our already overwhelming burden of Chinese debt.⁸ I do not see that up to date British firms have much to complain of. To sum up, while it is easy enough to fell a tree, it takes time to grow one; it is not an act of wisdom to lay axe to the roots of this particular tree until we are absolutely convinced its removal will be beneficial to our interests. Incidentally with the pull Americans now have with Chinese (owing to the crowd of advisers, technicians, &c., now here at the behest of the American-educated Sun Fo) it is doubtful whether removal of Consortium restrictions concerning supply of material for new important⁹ enterprises would at present be in any sense an advantage to our manufacturers.

My advice therefore is let us dismiss theory and deal with facts, viz., that China is still in too much of a mess for there to be any question of big loans by any one at present. If and when real political stability is reached it will be time enough to worry about what may by then be, but certainly it is not yet a practical issue. There is always remote possibility of China turning ultimately to League of Nations for assistance in reconstruction of her fiscal and financial system¹⁰ (see paragraph 16 of my despatch No. 511),¹¹ and in that case Consortium or possibly new Bank of International Settlement might conceivably play a useful part.

⁵ In the confirmatory copy this word read 'some'.

⁶ No. 95.

⁷ In the confirmatory copy this word read 'Consortium'.

⁸ The confirmatory copy here read: 'Chinese Government debt'.

⁹ In the confirmatory copy this word read 'industrial'.

¹⁰ See *League of Nations Official Journal*, February 1931, p. 147, for the visit to China in the spring of 1931 of Sir A. Salter, Director of the Economic and Financial Section of the League of Nations, and *ibid.*, July 1931, pp. 1081-3 and 1172-3 for co-operation in economic matters between China and the League.

¹¹ Not printed. Paragraph 16 of this despatch of April 2 referred to the probability of China's seeking financial assistance from the United States rather than from the League of Nations or the Consortium.

No. 162

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 6, 9.0 a.m.)

No. 1003 Telegraphic [F 6369/64/10]

PEKING, December 6, 1929, 3.5 p.m.

Following received from Mr. Aveling No. 253 December 4.

Foreign Office telegram No. 443 to Peking.¹

At interview today Minister for Foreign Affairs asked whether he could expect you in Nanking at latest before the end of the year in order to start discussions. I replied that I understood that Chinese Minister had, in recent conversation at Foreign Office, done his best to make negotiations impossible by holding out threat of unilateral denunciation of extraterritoriality, and that while such tactics were employed I felt sure you would not even consider possibility of holding any conversations on the subject. Dr. Wang said that so long as he was Minister for Foreign Affairs we might rest absolutely assured that, if negotiations were started before the end of the year, no decree would be issued [n]or any attempt made by the Government to force the pace whilst negotiations were actually proceeding. The party were restive but he had no intention of associating himself with any unilateral action provided, he repeated, that he was assured that negotiations would be commenced during present month.

¹ No. 148.

No. 163

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 458 Telegraphic [F 6108/64/10]

FOREIGN OFFICE, December 6, 1929, 7.40 p.m.

Your telegram No. 951.¹

China ratified her signature of the Optional Clause in May 1922 for a period of five years. At the expiry of the period she did not renew her signature and is therefore no longer bound by it. We cannot therefore bring her before the Court without her consent, which she is unlikely to give.

On the other hand it might strengthen our case if, in contesting China's right to unilateral denunciation, we were to say that, for our part, we were quite prepared to take the question to the Court.²

As for the possibility of utilising other League machinery, you are aware that the Chinese Delegation at the last Assembly proposed a resolution regarding Article 19 of the Covenant.

¹ No. 139.

² Cf. Mr. Henderson's declaration of September 19, 1929, on signature of the Optional Clause, printed in Cmd. 3421 of 1929.

In his first speech to the Assembly the Chief Chinese Delegate, Mr. Wu, spoke of the unequal treaties between China and the Western Powers, alleged that they required revision and suggested that the machinery of the Assembly under Article 19 of the Covenant should be used for the purpose. After private negotiation, he put forward a draft resolution for the adoption of the Assembly inviting the Council to appoint a Committee to consider and report on the means by which Article 19 could be made effective.

This draft resolution was, at his demand, referred to the First (Legal) Committee of the Assembly.

In opening the discussion in the First Committee, Mr. Wu said that he had moved his resolution because he believed that the unequal treaties required revision and that it might be desirable for them to be revised under Article 19.

Ultimately a resolution in wholly different terms was adopted by the Assembly.³

Mr. Wu explained that he only accepted the resolution:

(a) because it definitely confirmed the right of China to raise the unequal treaties before the Assembly under Article 19 at any time and on its own initiative, i.e. without the consent of other Powers; and

(b) because it confirmed the obligation which rests upon the Assembly, provided the request is made in a proper form, to take up the consideration of any treaty which has become inapplicable and to give the advice for which Article 19 provides.

On those grounds Mr. Wu expressed himself as reasonably content with the resolution. He recognised of course as did the Assembly that before the 'advice' of the Assembly under Article 19 could become effective the consent of all the parties to the modification of a treaty which has become 'inapplicable' is necessary.

It may well be that the action taken by Mr. Wu was taken on his own initiative and without instructions from Nanking.

Whether this be so or no he has given us a strong argument to use if the Nanking Government proceed to a unilateral denunciation of extraterritoriality. China is a member of the League; China maintains that extraterritoriality is no longer in accord with the conditions of the modern world, in short that the treaties on the subject have become 'inapplicable'. The Covenant provides Article 19 in order that members of the League may have a remedy in such a case; China's right to use that remedy is undisputed. But until the remedy has been used and the advice for modification given by the Assembly and accepted by the Parties, China remains under the obligation of the Preamble of the Covenant which stipulates for a 'scrupulous respect for all treaty obligations in the dealings of organised peoples with one another'.

The above material might be used by you as and when you think fit.

³ See No. 118, note 1.

No. 164

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 7, 9.0 p.m.)

No. 1011 Telegraphic [F 6403/64/10]

PEKING, December 7, 1929, 7.55 p.m.

My telegram No. 998.¹

At meeting last night of interested colleagues I explained my position i.e. that I was holding myself in readiness to proceed to Nanking but that the many considerations involved were still being examined and I was awaiting final instructions.

French Minister repeated the information contained in my telegram under reference and United States Chargé d'Affaires reaffirmed that his Government had fixed neither time nor place yet for negotiations and that State Department were still considering British programme. He had no information regarding proceedings of Chinese Minister in Washington or whether announcement of denunciation had been made to United States.

There was general agreement that in face of Chinese notifications in London and Paris of their intention to abolish extraterritoriality unilaterally the immediate opening of negotiations in Nanking unless carefully safeguarded risks creating a dangerous precedent by giving Chinese the impression that they have merely to make a threat to make us conform to their wishes.

United States Chargé d'Affaires said that in recent conversation with a reliable American the Minister for Foreign Affairs had stated that decree would be issued on January 1 abolishing extraterritoriality but excluding from the scope of the decree Shanghai, status of which would be left over for settlement by further decree on January 1, 1931.

French and Japanese information was to the effect that Wang's position is at present extremely precarious.

Repeated to Mr. Aveling and Tokyo.

¹ No. 158.

No. 165

Sir E. Howard (Washington) to Mr. A. Henderson
(Received December 9, 9.0 a.m.)

No. 577 Telegraphic [F 6436/64/10]

WASHINGTON, December 8, 1929, 4.0 p.m.

Washington Telegram No. 569¹ December 3.

I have now received (a) letter from Mr. Johnson reiterating the idea that the United States Government is committed to continuance of conversations here if Chinese Government so desire (in this connexion see my immediately

¹ No. 152.

following telegram²) and enclosing (b) an *aide-mémoire*³ containing comments of the United States Government on proposals of His Majesty's Government as embodied in *aide-mémoire* copy of which was enclosed in Washington despatch No. 2146⁴ of November 19. Copies of both *aide-mémoires* are being telegraphed to the United States Legation at Peking.

Comments of the United States Government are arranged to correspond with paragraphs of Mr. Campbell's *aide-mémoire*.⁴

Paragraph 1. United States Government agree with general view of His Majesty's Government as set forth in the second sentence of the 1st paragraph of Mr. Campbell's *aide-mémoire*. Concluding paragraphs of United States notes to China of August 10 and November 1 are quoted as indicating policy of the United States Government.

Paragraph 2. United States Government concurs in objections raised by His Majesty's Government to geographical method of approach and agree[s] that there is better chance of success in dealing with the matter by categories of cases but feels that in the course of negotiations it may be desirable to discuss both principles. United States Government concurs in proposed order of transfer of jurisdiction.

Paragraph 3. United States Government 'is giving consideration to the question of possibility of applying Chinese law progressively to controversies involving American citizens as defendants through instrumentality of American Consular Court[s] and the United States court for China'. United States Government agree 'that this method would help to bring to the attention of the Chinese Government the necessity for adopting codicils⁵ and making them universally applicable'.

Paragraph 4. United States Government agree that 'in applying principle of transfer by categories of cases the most that can be envisaged in the near future is transfer of jurisdiction in civil cases'. (See however under 8 below.)

Paragraph 5. United States Government agree with views of His Majesty's Government regarding transfer of civil cases to 'a modern court officially organised under existing system of judicial administration and properly staffed' rather than to a special court created *ad hoc*.

Paragraph 6. United States Government agree with His Majesty's Government also regarding the necessity of examining carefully Chinese codicils⁵ before decision can be reached as to transfer of any class of cases subject to such codicils⁵.

Paragraph 7. United States Government likewise agree[s] generally with the views of His Majesty's Government regarding question of safeguards but is not yet prepared to commit itself to any particular view on the question of employment by the Chinese Government of foreign judges which it is considering.

² No. 166.

³ This *aide-mémoire* and Mr. Johnson's covering letter of December 4 are printed in *Foreign Relations of the United States 1929*, vol. ii, pp. 635-8.

⁴ Not printed: see No. 132, note 2.

⁵ A pencilled note on the file copy of the telegram suggests 'codes' here.

Paragraph 8. United States Government finds it difficult to reconcile the view of His Majesty's Government that transfer of jurisdiction in civil cases can be effected in the near future (paragraph 4) with statement that suits between British subjects should continue to be heard in British courts. United States Government since February 23 1927 has not been insisting on the right of United States citizens to be represented in Chinese courts by American Consular officers (thus putting into effect recommendation of Extraterritoriality Commission on this point) but is urging United States citizens to take cases into modern courts of China. Thus any further step in regard to American civil cases must be in direction of placing of such cases within the jurisdiction of modern Chinese courts. United States Government 'would like to be enlightened on this point'.

Paragraph 9. United States Government would be interested in any suggestions which His Majesty's Government may have to make.

Paragraph 10. United States Government 'feels doubtful with regard to any attempt to distinguish between types of criminal cases feeling that abuses are likely to be perpetrated to as great an extent in petty cases as in others. Consideration is however being given to this suggestion.'

Paragraph 11. United States Government agree with the view of His Majesty's Government and would welcome suggestions as to nature of stipulations to be included in 'any understanding intended to protect aliens' against abuses mentioned.

Mr. Johnson's letter also encloses (c) draft proposal which United States Government is considering for possible presentation to the Chinese Minister here,⁶ this being one of several possible proposals under consideration.

Proposal states that United States Government is willing to conclude agreement along the following lines (1) beginning on January 1 next definite steps shall be taken towards relinquishment by United States Government of [extra-] territorial jurisdiction over United States citizens in China. Commission shall be established at the earliest possible moment to consist of two Commissioners chosen by Chinese Government, two by United States Government and one by these four who shall be a national of a third Power. Commission to be appointed within two months after exchange of ratification[s] of agreement shall examine laws and legal regulations in effect in China and recommend for application in American courts in China such of these laws and regulations as it finds effectively applied in Chinese courts. American courts shall apply Chinese laws and regulations thus approved by Commission.

(2) Present arrangements being designed for transitional period, more permanent settlement shall be negotiated at time provided in Article 17 of United States—Chinese treaty of (? October 8th)⁷ 1903⁸ for revision of that treaty i.e. presumably January 1934.

(3) Nationals of United States in China shall enjoy most-favoured-nation treatment.

⁶ See *ibid.*, vol. ii, p. 636, note 34.

⁷ The text is here uncertain.

⁸ This treaty of October 8, 1903, is printed in *Foreign Relations of the United States 1903*, pp. 91-119.

Mr. Johnson adds that United States Government desire to co-operate with other Governments in this matter and to be informed of progress made by them in any negotiations that they may undertake. United States Government will do likewise.

No. 166

Sir E. Howard (Washington) to Mr. A. Henderson
(Received December 9, 9.0 a.m.)

No. 578 Telegraphic [F 6437/64/10]

WASHINGTON, December 8, 1929, 8.40 p.m.

Your telegram No. 453 to Peking.¹

Suggestion in last sentence of last paragraph had occurred to us, but in his conversations with Mr. Johnson, Mr. Campbell was able to elicit nothing one way or the other to serve as an indication. Mr. Campbell had been contemplating as soon as he could ascertain dates of Mr. MacMurray's departure and of Mr. Johnson's arrival at Peking, taking the opportunity of some private meeting with the latter, to ask whether procedure suggested in sentence abovementioned might not provide means of securing conduct of all negotiations on extraterritoriality in China in accordance with your earnest wishes.

Second sentence of your telegram.

We think that this and last sentence probably provide partial explanation of willingness of United States Government to carry out conversations here. Another reason may have been the feeling of disappointment (which I have reason to think exists) over our failure to agree to concerted representations in Chinese-Soviet dispute in its earlier phases.

¹ No. 159.

No. 167

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 9, 9.0 a.m.)

No. 1016 Telegraphic [F 6433/64/10]

PEKING, December 9, 1929, 12.55 p.m.

Your telegram No. 451.¹

There can clearly be no question now of negotiations in China until things clear. Political situation has developed with startling rapidity and it is lucky I had not started south.²

¹ No. 160.

² The reference was (i) to the mutinies of Chinese troops at Puchow and Changchow in the first week of December, which resulted in the cutting of the railway from Tientsin and Shanghai to Nanking, and, probably (ii) to a manifesto directed against General Chiang Kai-shek by a number of Kuomintang generals.

I admit the force of arguments in your telegram in favour of China as seat of *eventual* negotiations though I fear you attach undue importance to personal factor (paragraph 6 of your telegram).

Meanwhile it would be better not to leave extraterritoriality question entirely in the air and my recommendation now is that Chinese Minister should be summoned to Foreign Office forthwith (*vide* French action) and notified, preferably formally and in writing for fear he may later deny any record, that His Majesty's Government refuse to admit so irregular a communication as his statement (? of November 25th)³; that we remain ready to open formal discussions as soon as practicable but only on condition that Chinese Government definitely assure us in some binding way that they will refrain from their declared intention of unilateral abolition; and that only when that has been cleared up to our satisfaction shall I be authorised to open negotiations.

This would (1) keep is [*sic* ? us] right in the eyes of the world including reasonable China; and (2) give us time to see how things develop here.

At the moment outlook is singularly threatening.

Repeated to Mr. Aveling and Tokyo.

³ The text is here uncertain. The reference is presumably to the statement recorded in No. 138.

No. 168

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received December 9, 9.0 a.m.)

No. 1017 Telegraphic [F 6438/64/10]

PEKING, *December 9, 1929, 2.45 p.m.*

Personal.

Your telegram No. 452.¹

As reported in my telegram No. 1016² I do not desire further to press the idea of detailed negotiations in London though I still feel there would have been certain advantages in doing so. I trust however that the idea of *preliminary* discussion of them with Chinese Minister may appeal to you in the circumstances of the moment. It seems to me sensible thing to do.

¹ No. 157.

² No. 167.

No. 169

Mr. Campbell (Paris) to Mr. A. Henderson
(Received December 10, 4.0 p.m.)

No. 167 Telegraphic [F 6476/64/10]

PARIS, December 10, 1929, 1.26 p.m.

Peking telegram No. 998.¹

Ministry of Foreign Affairs wish you to know that whatever action may be taken by the other Powers they do not intend to admit Chinese right to denounce treaties. They still favour proposal apparently made by Sir M. Lampson that Chinese Government should be so informed by a joint representation of Powers.

¹ No. 158.

No. 170

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 11, 3.0 p.m.)

No. 1025 Telegraphic [F 6556/64/10]

PEKING, December 11, 1929, 5.55 p.m.

Your telegram No. 458.¹

For reasons submitted in the past² I doubt the advisability of utilising the League machinery if this can be avoided. It opens a wide door and would presumably make concerted action with United States more difficult: previous [*sic*] action before Permanent Court has not the same objections. It is unfortunate that China is no longer bound by Optional Clause but I should favour offer on our part none the less to take question to Court as suggested in second paragraph of your telegram. It is true that this might not prevent China from taking unilateral action but it might at least make it less easy for her to do so.

Belgium's experience with old Peking regional Government seems to me hardly true criterion and in any case was it not Belgium's own action which prevented her case from being proceeded with?

Granted reference to Court might merely amount to a gesture designed to put China wrong in the eyes of the world (see your telegram No. 443³) I do not see that that should necessarily rule it out: as I see it only moral factor which is the least likely to have any deterrent effect on China today is the world's public opinion. That was shown over Chinese Eastern Railway affair. I do not follow therefore why we should refrain from using what may prove to be our most effective lever.

It seems to me clearly desirable that China's bad faith should be made publicly manifest if only in case we should be forced later to take practical

¹ No. 163.

² See No. 128.

³ No. 148.

steps to protect our nationals and interests. What particular channel is chosen for the purpose does not matter much but Permanent Court seems preferable to the League Covenant.

Repeated to Mr. Aveling and Tokyo.

No. 171

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 12, 9.0 a.m.)

No. 1033 Telegraphic [F 6558/64/10]

PEKING, December 12, 1929, 12.45 p.m.

French Minister has received telegram from Minister for Foreign Affairs pressing him to proceed to Nanking to initiate negotiations regarding extra-territoriality regarding which he is alleged to have received full powers from Paris.

He has replied that no such full powers have yet reached him and commenting on existing difficulties both as regards travel and political situation which precludes him at present from complying.

Repeated to Mr. Aveling and Tokyo.

No. 172

Mr. A. Henderson to Mr. Campbell (Paris)

No. 2641 [F 6456/64/10]

FOREIGN OFFICE, December 12, 1929

Sir,

The French Ambassador called on the 6th December and read to Sir V. Wellesley a despatch from M. Briand, in which the latter expressed the hope that the Ministers in Peking would agree, in replying to China's last note respecting extraterritoriality, in the following sense, i.e., that the Powers did not admit China's right to denounce the treaties unilaterally, and that, should this threat be carried out, they reserve to themselves complete liberty of action. M. Briand understood that Sir Miles Lampson was in agreement with this proposed action.

2. Sir V. Wellesley asked M. de Fleuriau whether this meant that the French Government were not disposed to negotiate with the Chinese unless and until the Chinese Government had withdrawn the threat. To this M. de Fleuriau replied in the negative, whereupon he asked him what M. Briand proposed to achieve by such premature action. We, too, had in contemplation a protest on somewhat similar lines, to be made only if and when the Nanking Government carried out its threat. There did not seem that there was anything to be gained by anticipating that event in the manner suggested

by M. Briand, but, on the contrary, it might prove provocative. After all, there was something to be said on the Chinese side owing to the undue delay in starting negotiations, and there was reason to believe that the threat was merely being used as a means of exerting pressure on the Powers to commence negotiations. Having made the threat, however, the Nanking Government might find themselves forced to put it into execution, and once that was done the situation would be infinitely worse because sooner or later the Powers would be forced to terms in much more humiliating circumstances unless they were prepared to resort to force. Measures of coercion seemed out of the question; it was therefore a case of bend or break. Surely, therefore, it was wiser to try to prevent such a situation from arising than to take action which might actually provoke it.

3. Sir V. Wellesley then read to M. de Fleuriau Mr. Aveling's telegram to Sir M. Lampson of the 4th December,¹ which showed quite clearly that Dr. Wang did not intend to carry out his threat if he could possibly help it.

4. M. de Fleuriau replied that he had not the least faith in Dr. Wang's assurances, and that the only way of dealing with the Chinese was to show them firmness.

5. Sir V. Wellesley said that he was fully aware of that, and that the history of the past had always shown that the Chinese would instantly give way to measures of force, but these methods were out of date, especially since the League of Nations had come into existence. He asked M. de Fleuriau what the French Government intended to do if the Chinese carried out their threat and French interests were thereby affected. To which he replied that if they went too far the French Government would undoubtedly use force.

6. Referring to the subject of negotiations, Sir V. Wellesley asked M. de Fleuriau what were the intentions of the French Government in view of the action which they now proposed. He said that they were not in the least disposed to hurry them on in consequence of the Chinese threats; on the contrary, they would prefer to wait till after the 1st January in order to show the Chinese that there was nothing to be gained by the use of threats. The French Government held very strongly that it was now up to the Chinese to put up their proposals, and that we could well wait until they come forward with them.

7. Sir V. Wellesley replied that this was theoretically sound enough, but that in practice it would mean postponing the matter to the Greek Kalends. We had therefore come to the conclusion, having regard to all the circumstances, not to delay the matter any longer but to try to start negotiations with the Chinese at once. Once we had got them to foregather [*sic*] round a table the situation would be eased, and we could still call upon them to put up their proposals. We attached the greatest importance to solidarity among the Powers, and we thought there was far more to be gained by meeting the Chinese in a friendly and conciliatory spirit, though with a united front, than by indulging in any protests against threats the execution of which it would be far wiser to try to avert than to challenge.

¹ See No. 162.

8. M. de Fleuriau replied that, if the Nanking Government had been firmly in the saddle exercising an effective authority over the whole country, he would readily have agreed with these views, but that was notoriously not the case. We were threatened with a recrudescence of civil war and the splitting up of the Nanking Government into warring factions, and he viewed with dismay the submission of foreigners and foreign interests to Chinese jurisdiction in present circumstances.

9. Sir V. Wellesley told the Ambassador that we were fully aware of the risks involved, and that was why we were so anxious that the whole process of the surrender of extraterritorial rights should be a very gradual one. A beginning would have to be made. If we waited until China had set her house in order, it would postpone the matter to the Greek Kalends. There was far more danger in that than in accepting the risks of the present situation.

I am, &c.,

ARTHUR HENDERSON

No. 173

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received December 17, 12.0 noon)

No. 1057 Telegraphic [F 6713/64/10]

PEKING, December 17, 1929, 4.30 p.m.

Following from Mr. Aveling No. 260 of December 13.

Extraterritoriality.

I had a long private talk with Minister for Foreign Affairs this morning and, arising out of his renewed request that you should come to Nanking as soon as possible, elicited some interesting information.

2. In the first place Minister for Foreign Affairs admitted that his object in insisting upon independent negotiations with each Power was to secure the greatest concessions from each country and to make a final agreement embodying them all. He would not settle with any one country until he knew that the limit of concessions had been reached by United States and ourselves who were the only Powers that he had to consider. (? I said)¹ that if those were his tactics I saw no particular reason why we should be in any hurry to negotiate since, however ready we might be to reach a settlement, he would not commit himself until he knew what the United States would do. He replied that he intended to keep us fully informed of attitude of United States and vice versa and added confidentially that if we so desired he would be quite willing to negotiate with United States and ourselves *jointly* in China but if such procedure were agreed upon it was essential that other interested Powers should not be informed as he was determined not to have an international conference which included Japan, France and Holland.

¹ The text is here uncertain.

3. Arising out of Provisional Court conference discussions he said that Judicial Yuan was not disposed to accept principle of foreign judges as a condition of [? surrender of] extraterritoriality. Question would not however be finally settled until Wang² returned. Minister for Foreign Affairs was personally in favour of this idea and would endeavour to persuade the Government to accept it.

² The reference is presumably to Dr. Wang Chung-hui: cf. No. 36, note 1.

No. 174

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 480 Telegraphic [F 6433/64/10]

FOREIGN OFFICE, *December 20, 1929, 6.30 p.m.*

Your telegram No. 1057¹ and previous telegrams.

I doubt the wisdom of refusing to negotiate unless the Chinese Government give binding assurances such as those suggested in your telegram No. 1016² under reference. If forced either to accept public defeat or to proceed to extreme courses the Chinese Government would probably choose the latter alternative. In that case, in order to escape from a situation of great danger and friction, we should have to negotiate under worse conditions later on. I am therefore of opinion that you should make a start with negotiations as soon as possible, though serious progress might be deferred if you think it advisable until new United States Minister arrives, assuming this will be at a fairly early date.

2. My immediately succeeding telegram³ contains text of an *aide-mémoire* which I have handed today to the Chinese Minister for transmission to his Government. The object of this step is to induce the Chinese Government to issue the threatened unilateral denunciation of extraterritoriality in an innocuous form.

3. A copy of the *aide-mémoire* should be handed to Dr. C. T. Wang before January 1, if you are able to go to Nanking immediately after Christmas it may be preferable that you should communicate it personally, otherwise you should instruct Mr. Aveling to do so at once.

Repeat to Tokyo. Repeated to Paris No. 317 by bag, Washington No. 661, The Hague No. 62, and Oslo No. 86.

¹ No. 173.

² No. 167.

³ Not here printed. The *aide-mémoire* is printed in Cmd. 3480 of 1930, pp. 3-4.

No. 175

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 484 Telegraphic [F 6906/64/10]

FOREIGN OFFICE, *December 24, 1929, 3.30 p.m.*

My telegram No. 481.¹

Chinese Minister called this morning and handed to Sir V. Wellesley in my absence *aide-mémoire* text of which is contained in my immediately succeeding telegram.² Sir V. Wellesley said he felt sure I should regard this reply as very satisfactory and that I should have no objection to a declaration by the Chinese Government in the sense mentioned.

Chinese Minister said that before receiving my *aide-mémoire* Chinese Government had telegraphed to him complaining that you had not come to Nanking to start negotiations and suggesting that negotiations should accordingly begin here. He thought it very advisable that you should begin negotiations before the end of the year. Sir V. Wellesley stated that you had authority to go to Nanking at the earliest convenient moment but pointed out inevitability of some delay owing to Christmas holidays and cutting of railways.

¹ Not printed. See No. 174, note 3.

² Not here printed. The *aide-mémoire* is printed in Cmd. 3480 of 1930, p. 4.

No. 176

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 24, 4.30 p.m.)
No. 1090 Telegraphic [F 6891/64/10]

PEKING, *December 24, 1929, 4.30 p.m.*

Following received from Mr. Aveling No. 271 of December 23. Begins:—
Foreign Office telegrams 480¹ and 481 to Peking.²

At end of interview today covering Provisional Court and a number of minor questions, Minister for Foreign Affairs said that he had received 'very encouraging news from Mr. Henderson regarding extraterritoriality'. I told him I had just received the message to which I presumed he referred and added that I trusted he would now realise the folly of taking unilateral action on January 1.

He replied that Foreign Office memorandum handed to the Chinese Minister would greatly facilitate his task and that the Government had now definitely decided to issue manifesto on December 31 or January 1 which would, in effect, declare extraterritoriality abolished within the maximum period of six months. During that period the Chinese Government would negotiate with the Powers. The Government would, in the manifesto, an-

¹ No. 174.

² Not printed. See No. 174, note 3.

nounce their programme which would be that already communicated to United States Government by Chinese Minister at Washington, namely establishment of special courts at Canton, Hankow, etc. It was not yet definitely decided how long these courts would continue to exist but he thought possibly for two years. He had himself advocated employment by Chinese Government of foreign co-(operation with)³ judges but judicial authorities held contrary view. The question would probably not be finally settled until the return of Wang Chung-hui.

2. Having no indication as to His Majesty's Government's attitude beyond that contained in Foreign Office telegram 480 I refrained from making any comment.

3. I am greatly relieved that you were prevented by circumstances from coming to Nanking for although Dr. Wang gave most categorical assurances that, in that event, there will be no unilateral action, see my telegram 253⁴, his word and undertakings are utterly worthless. Whether his own opinions have been overruled by the party, as I am inclined to believe, or whether he has been deliberately lying with the view to exploiting your presence here the result is the same. Ends.

³ It was suggested in the Foreign Office that the bracketed passage should be omitted.

⁴ See No. 162.

No. 177

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 25, 9.0 a.m.)

No. 1091 Telegraphic [F 6892/64/10]

PEKING, December 25, 1929, 2.30 p.m.

Your telegrams Nos. 480¹ and 481².

My view which is strengthened by Aveling's telegram No. 271³ and in which he concurs is that there is no intrinsic advantage and much possible disadvantage in beginning personal discussions before January 1 seeing that it is now certain that some form of declaration will then be issued by Chinese. It flows naturally from our *aide-mémoire* of December 20 that discussions should open on basis of that document plus the terms of Chinese declaration whatever they may be and it seems in every way preferable that we should know them and reaction of His Majesty's Government before I actually leave Peking. According to what Dr Wang told Aveling the manifesto will in effect declare extraterritoriality abolished, but we suspect that its terms are likely to be sufficiently ambiguous to admit of one interpretation for home consumption and another for diplomatic negotiations.

¹ No. 174.

³ See No. 176.

² Not printed. See No. 174, note 3.

Unless therefore I am instructed to the contrary I shall make my plans to leave for the South in early days of January. The delay of a few days will also be useful in view of the rumours of pending developments in political situation since the railway being still interrupted I shall almost certainly have to travel by sea which means being out of touch with events for some days. We also have the Shanghai Court negotiations on our hands in regard to which it is important to maintain close contact as long as possible with, and to some extent to steer, my colleagues here.

In the meantime I am directing Aveling to communicate forthwith to Minister for Foreign Affairs a copy of your *aide-mémoire* of December 20 formally and in my name. The Chinese Minister in London may not have sent its text in full or sufficiently emphasized necessity for acting in accordance with it.

If and when I open discussions at Nanking I have it in mind first to work to get general principles agreed to and then endeavour to arrange for a technical study by experts of their practical application. In the meantime it seems essential that we should as far as possible be informed from outset and before I begin my talks of what Americans are doing. I have asked United States Chargé d'Affaires if he has any indication of probable date of arrival of his Minister and whether he is likely to transfer the negotiations here with him. He is without information and would prefer that we should ascertain at Washington. Can this be done?

Repeated to Mr. Aveling, copy to Tokyo.

No. 178

Mr. A. Henderson to Sir E. Howard (Washington)

No. 675 Telegraphic [F 6892/64/10]

FOREIGN OFFICE, *December 26, 1929, 2.45 p.m.*

My telegram to Peking No. 480.¹

Can you ascertain approximate date of new United States Minister's intended arrival in Peking, how far United States Government propose to negotiate in Washington and whether place of negotiations will be transferred to China when Mr. Johnson goes there? The close touch which is desirable will obviously be very difficult if United States negotiations and ours are conducted in different places.

Repeated to Peking.

¹ No. 174.

No. 179

Sir E. Howard (Washington) to Mr. A. Henderson
(Received December 29, 9.30 a.m.)
No. 611 Telegraphic [F 6944/64/10]

WASHINGTON, December 28, 1929, 4.33 p.m.

My immediately preceding telegram.¹

I gathered from Mr. Cotton whom I saw alone before Mr. Johnson came in that United States Government felt they were to some extent bound by some assurance given by Mr. Johnson to the Chinese Minister here to negotiate in Washington if Chinese Government accepted their point of view generally as laid down in United States note of August 9 [10]. I inferred indirectly from one or two things that Mr. Cotton said that he considered this assurance to have been unfortunate and that State Department would be glad if possible to transfer negotiations to China.

¹ No. 180. These telegrams were despatched in reverse order.

No. 180

Sir E. Howard (Washington) to Mr. A. Henderson
(Received December 29, 9.30 a.m.)
No. 610 Telegraphic [F 6943/64/10]

WASHINGTON, December 28, 1929, 4.37 p.m.

Your telegram No. 675.¹

I saw Mr. Cotton and Mr. Nelson Johnson together this morning and was informed that latter would leave Washington January 6 and hoped to be in Peking on February 1.

As to place of negotiations I was told that this depended on the Chinese. Chinese Minister here had recently handed in a note² to which as yet no answer had been returned by United States Government. Purport of this note was I understood that while Chinese Government were determined to issue on January 1 their declaration that as from that date all foreigners including Americans were to be subject to Chinese laws and courts three months grace was to be allowed before enforcing this provision in order to give time for negotiations to arrange actual method of enforcement. United States Government interpreted this as meaning that Chinese Government only meant by their declaration that United States citizens would be so subject in principle and that Chinese Government agreed to allow enforcement to be carried out by degrees in accordance with terms of United States note to Chinese of August 9 [10] (referred to in my telegram No. 361³). If this

¹ No. 178.

² See *Foreign Relations of the United States 1929*, vol. ii, p. 661.

³ Not printed.

were the case and Chinese Government desired to negotiate in Washington I gathered that United States Government would agree although Mr. Cotton and I believe Secretary of State also is of your opinion that on account of very technical nature of negotiations it would be better to negotiate on the spot where expert advice can be obtained.

If however Chinese Government takes the line that whether an agreement has been reached or not United States citizens will after three months be subject to Chinese courts, United States Government will at once transfer any further discussions to Peking. I was promised a copy of any reply that United States Government would give to latest Chinese note.

I enquired whether Secretary of State had any comments to make on *aide-mémoire* handed by you to Chinese Minister in London on December 20 (your telegrams No. 661 and No. 662⁴).

Mr. Cotton said he would enquire but that in any case so far as United States Government were concerned they had not in any way changed their attitude towards this question as set forth in their note of August 9 [10] above mentioned.

⁴ Foreign Office telegrams Nos. 380 and 381 to Peking (see No. 174 and No. 174, note 3) were repeated to Washington as Nos. 661 and 662.

No. 181

Letter from M. Cambon to Sir V. Wellesley

[F 6951/64/10]

AMBASSADE DE FRANCE A LONDRES, 29 *Décembre*, 1929

Cher Sir Victor,

L'Ambassadeur, qui rentre à Londres demain, viendra vous parler à son retour de Paris des affaires de Chine.

En vue d'éviter toute perte de temps, je crois utile de vous communiquer ci-joint une note définissant la position actuellement prise par M. Briand en ce qui concerne l'affaire de l'exterritorialité et qui indique combien on serait heureux à Paris de connaître le point de vue britannique.

Je vous prie, Cher Sir Victor, de bien vouloir agréer l'expression du respectueux dévouement

de votre bien
cordialement
ROGER CAMBON

ENCLOSURE IN No. 181

AMBASSADE DE FRANCE A LONDRES, le 29 *décembre*, 1929

Le Ministre de Chine à Paris, au cours de sa dernière visite au Ministère des Affaires Étrangères, a déclaré n'être pas informé de la décision qu'aurait prise, selon la Presse, le Conseil Central du Kuomingtang d'abroger le Premier Janvier prochain le régime d'exterritorialité.

Le Représentant chinois a dit, d'ordre de son Gouvernement, que ce dernier se proposait de faire le Premier Janvier une déclaration sur l'exterritorialité.

Le Ministre de Chine a ajouté que son pays avait reçu du Gouvernement britannique la promesse de considérer cette date comme le point de départ des négociations pour la suppression de ces privilèges et que le Gouvernement américain manifestait les mêmes intentions favorables. Le Gouvernement chinois demandait donc au Gouvernement français de lui prêter le même concours.

Cette requête a été l'objet de la part de M. Briand de la réponse suivante :

Le Gouvernement français a déjà fait part de ses intentions sympathiques à l'égard du Gouvernement de Nankin et il a exposé à plusieurs reprises les conditions auxquelles pourrait être subordonnée l'étude de la suppression de l'exterritorialité. Il a demandé au Gouvernement chinois de faire à ce sujet des propositions précises et attend toujours la réponse de ce dernier.

Il est donc inutile de demander à la France de reconnaître le Premier Janvier comme date de l'ouverture des négociations. Les nombreuses notes que le Gouvernement chinois a remis au Gouvernement français et auxquelles ce dernier a répondu, constituent déjà des échanges de vues que M. Briand est disposé à poursuivre sur la base de ses communications antérieures.

Parmi les conditions prévues, le Gouvernement français fait une place essentielle à la nécessité pour les deux parties de se mettre préalablement d'accord sur le principe d'un processus d'évolution graduelle. Le Gouvernement chinois n'a pas encore fait savoir s'il partage cette manière de voir.

En tout état de cause, le Gouvernement français ne pourrait consentir à la suppression de l'exterritorialité, qui aurait, selon les Agences d'Informations, fait l'objet de la décision du Comité Central du Kuomintang. Si le Gouvernement chinois procédait à la dénonciation unilatérale des dispositions du Traité Franco-Chinois de 1858, le Gouvernement français se trouverait en présence d'une violation formelle des droits reconnus à ses nationaux par un texte dont la révision est prévue par périodes de douze années, dont la prochaine échéance tombe le 25 Octobre 1932. Une dénonciation unilatérale de ce Traité obligerait le Gouvernement français à réserver sa liberté d'action.

Le Ministre de Chine a promis de télégraphier un résumé de cette réponse à son Gouvernement.

En portant ce qui précède à la connaissance de Son Excellence le Principal Secrétaire d'État de Sa Majesté britannique aux Affaires Étrangères, M. de Fleuriau est chargé par M. Briand de s'enquérir auprès de lui de la manière de voir du Gouvernement britannique.

M. de Fleuriau saisit cette occasion pour renouveler à Monsieur Arthur Henderson l'assurance de sa haute considération.

No. 182

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 30, 9.30 a.m.)

No. 1102 Telegraphic [F 6952/64/10]

PEKING, December 30, 1929, 11.30 a.m.

Following received from Mr. Aveling No. 275 of December 28.

Addressed to Peking No. 275, repeated to Commander-in-Chief.

My telegram No. 274.¹

At the urgent request of Minister for Foreign Affairs I called on him early this morning when he told me of the decision reached yesterday by Central Executive Committee. Principal points of this decision which will be published as soon as possible are:—

1. January 1 is to be regarded as date from which abolition of extra-territoriality shall commence in principle.

2. Executive and Judicial Yuans are instructed to work out detailed plan to be submitted to Legislative Yuan for enactment.

3. No reference is made to foreigners being subjected to jurisdiction of Chinese Courts and no dates (except January) are mentioned.

Paragraph 2. Minister for Foreign Affairs who was in high spirits said that he had carried Central Executive Committee with him and that Foreign Office *aide-mémoire* as well as the very outspoken remarks I had made on December 25 (my telegram No. 274) had enabled him to deal with the question as he wished.

Paragraph 3. I said that in the circumstances I felt sure that you would proceed to Nanking as soon as possible in order to initiate negotiations.

He begs that you will do so.

¹ It has not been possible to trace this telegram in the Foreign Office archives.

No. 183

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 30, 9.0 a.m.)

No. 1103 Telegraphic [F 6950/64/10]

PEKING, December 30, 1929, 11.30 a.m.

Following from Mr. Aveling.

Addressed to Peking No. 276; repeated to Commander-in-Chief.

My telegram No. 275.¹

Following is official translation of mandate issued this afternoon² and communicated to me by Minister for Foreign Affairs. Begins:

'In every full sovereign State foreigners as well as its nationals are equally amenable to its laws and to the jurisdiction of its tribunals. This is an essen-

¹ See No. 182.

² This mandate of December 28 is printed in Cmd. 3480 of 1930, p. 5.

tial attribute to State sovereignty and a well established principle of international law.

'For more than eighty years China has been bound by systematic extra-territoriality³ which has prevented the Chinese Government from exercising its judicial power over foreigners within its territory. It is unnecessary to state here the defects and disadvantages of such a system. As long as extra-territoriality is not abolished so long will China be unable to exercise her full sovereignty. For the purpose of restoring her inherent jurisdictional sovereignty it is hereby decided and declared that on and after the first day of the first month of the nineteenth year of the Republic (January 1, 1930) all foreign nationals in the territory of China who are now enjoying extra-territorial privileges shall abide by the laws, ordinances and regulations duly promulgated by the Central and local governments of China. The Executive Yuan and Juridical Yuan are hereby ordered to instruct the ministries concerned to prepare as soon as possible a plan for the execution of this mandate and to submit it to the Legislative Yuan for examination and deliberation with a view to its promulgation and enforcement.' Ends.

2. It is difficult to reconcile Minister for Foreign Affairs' statement (my telegram No. 275) with the mandate now issued and will be impossible if Executive and Judicial Yuan's . . .⁴ is to be promulgated in the immediate future. Minister for Foreign Affairs' contention is that it will not be enforced until negotiations with the Powers have been brought to a satisfactory conclusion but one cannot attach any importance to his verbal statements.

3. In all circumstances and particularly in view of the fact that Provisional Court negotiations are at all events temporarily held up I have decided to return tomorrow December 29 to Shanghai pending your instructions.

4. As regards your telegram 449⁵ do you still desire me to attend President's reception and deliver message to Minister for Foreign Affairs? There are no other diplomatic representatives here. Please telegraph instructions to Shanghai urgently. Ends.

³ This phrase should read: 'by system of extraterritoriality'.

⁴ The text is here uncertain.

⁵ It has not been possible to trace this telegram in the Foreign Office archives.

No. 184

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received December 30, 4.5 p.m.)

No. 1107 Telegraphic [F 6997/64/10]

PEKING, December 30, 1929, 6.25 p.m.

Mr. Aveling's telegrams Nos. 275 and 276.¹

These developments were discussed at meeting of interested heads of Legations this morning. I intimated my intention had been to leave for

¹ See Nos. 182 and 183.

Nanking by sea on January 2 and that I felt I must still do so in the light of my existing instructions, but that terms of mandate were such and were so diametrically different to what had been suggested in your memorandum to Chinese Minister of December 20 and subsequently promised by him and by Minister for Foreign Affairs through Mr. Aveling, that it was quite possible you might have fresh instructions for me which could always reach me by wireless on the way even if I had already left. That my own inclination was certainly to take a stiff line for it seemed indisputable that there had been again that duplicity (I called attention to conflicting nature of Mr. Aveling's two telegrams) which I had all along suspected. In any event I did not see that we could possibly or safely let mandate stand unchallenged and I hoped that His Majesty's Government would be considering the immediate issue of a formal and public repudiation of its validity so far as British subjects are concerned pending negotiation of some arrangement mutually acceptable to the two Governments. May I suggest that this be done?

As regards paragraph 2 of Mr. Aveling's telegram No. 276, United States Chargé d'Affaires has information that prescribed plan to be drawn up by Ministries for execution of mandate will be issued before the end of the year so that even that loophole for possible delay may not be available as I had at first hoped might be the Chinese intention.

There remains the question what is to be done in the event of any attempt to enforce mandate on British subjects. My views are definite and were submitted in detail on November 30 (my telegram No. 980²): I adhere to them. It is my considered opinion that Commander-in-Chief should, in case of need, act in accordance with them. The knowledge that this is our line will almost certainly prevent the need arising. It is no use waiting until an incident occurs; it only places our authorities in an unfair position if they do not know beforehand where they stand and what they are to do.

Repeated to Mr. Aveling, Tokyo, Commander-in-Chief, Hong Kong for General Officer Commanding.

² No. 145 was drafted on November 30.

No. 185

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 30, 2.45 p.m.)
No. 1108 Telegraphic [F 6959/64/10]

PEKING, December 30, 1929, 7.25 p.m.

My immediately preceding telegram.¹

I have since received following telegram from Minister for Foreign Affairs. Begins.

I believe the time has arrived for our two Governments to enter into detailed negotiations with a view to agreeing on a plan for carrying abolition

¹ No. 184.

of extraterritoriality into effect to our mutual satisfaction. I therefore request Your Excellency to proceed to Nanking at once for the purpose of initiating such negotiations and concluding them at an early date. Ends.

I shall not reply pending the answer to my telegram under reference when in giving date of my departure I can make any point you may wish covered as the result of issue of mandate December 28. I also propose to include a sentence that I read his telegram as meaning that until as a result of detailed negotiations which he proposes therein some agreed plan has been arrived at to our mutual satisfaction for *gradual* abolition of extraterritoriality, the Mandate will not apply to British subjects.

Repeated to Mr. Aveling.

No. 186

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 31, 9.0 a.m.)

No. 1109 Telegraphic [F 7017/24/10]

PEKING, December 31, 1929, 1.5 p.m.

Following for Sir V. Wellesley:

Your despatch No. 1037¹ received last week.

We have not yet asked Chinese for facilities elsewhere and I was proposing to hold this in reserve for the present and play for continuance of existing facilities at Weihaiwei. I may during my forthcoming visit to Nanking be acting on instructions in Foreign Office telegram No. 276² and meanwhile if you are too open with Chinese Minister it may weaken my position here in negotiations.

¹ Not printed. See No. 112, note 1.

² No. 84.

No. 187

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 31, 11.35 a.m.)

No. 1110 Telegraphic [F 7018/64/10]

PEKING, December 31, 1929, 3.55 p.m.

Following received from Mr. Aveling No. 277 of December 29.

On December 29 in reply to Dr. Wang's personal letter enclosing text of mandate¹ issued same day on the subject of abolition of extraterritoriality I wrote him following letter.

Begins—

'I am obliged to you for your note of last night enclosing translation of mandate.

¹ See No. 183.

'I must at once say that I find it almost impossible to reconcile terms of mandate with statement you made to me yesterday morning. It goes of course far beyond scope of *aide-mémoire* communicated to Doctor Sze.²

'I telegraphed it at once to Minister together with my comments and am myself leaving for Shanghai today pending his instructions.'

Ends.

Dr. Wang, assuming that I had already left for Shanghai, asked Mr. Hewlett to call on him. Mr. Hewlett having informed him that I was not leaving until midnight, Dr. Wang requested me to call on him at once.

He said he gathered from my letter that I must be under a misapprehension regarding interpretation to be placed on mandate adding that it merely confirmed what Foreign Office had already declared to be their policy namely the abolition of extraterritoriality *in principle*. I replied that I could not see that mandate could be capable of more than one interpretation namely the one that it was undoubtedly intended to convey to Chinese people. It was in fact an announcement that Chinese Government abolished extraterritoriality unilaterally. It was true the mandate did not provide that British subjects should be submitted to jurisdiction of Chinese Courts and that, for the time being, abolition of extraterritoriality would not be put into practical effect but none the less it did definitely declare that Chinese Government repudiated principle of extraterritoriality which was a treaty right.

I continued that in Foreign Office *aide-mémoire* it was clearly stated that His Majesty's Government were willing to agree that January 1 should be treated as date from which process of gradual abolition of extraterritoriality might be regarded as having commenced in principle. To attempt, as he did, to maintain that mandate followed lines of *aide-mémoire* was a deliberate distortion of the facts. What we had agreed to in principle was gradual abolition of extraterritoriality. What Chinese Government had declared was abolition of principle of extraterritoriality. Dr. Wang said that he had purposely left us a loophole for negotiations and for delaying subjection of extraterritorial persons to jurisdiction of Chinese Courts, the last sentence of mandate being intended to indicate to the Powers that nothing would be done pending agreement by negotiation. There was nothing in the mandate which prevented a settlement on basis of gradual abolition, since subsequent legislation would overcome provision in mandate declaring that extraterritorial persons shall abide by the laws etc. duly promulgated by Central and Local governments. The words in the last sentence of mandate, 'as soon as possible' and the words 'for examination and deliberation with a view to' were intended respectively to satisfy Chinese public opinion and to provide for negotiations with the Powers regarding the method and scope of jurisdiction to be exercised by special Chinese Courts over foreigners.

I observed that . . .³ the announcement, whatever construction he wished us to place on the mandate, one point was clear namely that principle of extraterritoriality was declared abolished by unilateral action. What Chinese

² See No. 174, note 3.

³ The text is here uncertain.

had done in fact was first to tear up a treaty right and then to invite us to negotiate and thus to acquiesce in what they had done.

The discussion continued for some time, with result that we agreed to differ.

No. 188

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received January 1, 9.0 a.m.)

No. 6 Telegraphic [F 9/1/10]

PEKING, January 1, 1930, 2.40 p.m.

Following from Nanking.

Addressed to Peking No. 301, repeated to Shanghai for Mr. Aveling.

I have received from Dr. Wang the following letter marked 'Personal'.

In order to dispel any possible misunderstanding on the part of foreigners now enjoying extraterritoriality, I have issued a statement. I am sending a copy of it to you which you may pass on to Mr. Aveling.

Following is statement verbatim.

Begins.

For more than eighty years China has been bound by system of extraterritoriality which has prevented Chinese Government from exercising its juridical powers over foreigners within its territory. It is unnecessary to state here the defects and disadvantages of such a system; but Chinese Government and people cannot leave this state of affairs without remedy.

Extraterritoriality is not an ordinary diplomatic problem. It touches the life of the Chinese people in so many intimate ways that it must be considered by Chinese Government as being likewise a domestic question of immediate moment. It is for this reason that Chinese Government is compelled to declare that the year 1930 is the decisive time and that actual process of re-establishing Chinese sovereignty by abolition of extraterritoriality begins on January 1. With that in view it will undertake measures designed to release sovereign rights of China from the trammels of extraterritoriality and has accordingly ordered Executive Yuan and Juridical Yuan to instruct Ministries concerned to prepare a plan for this purpose.

Chinese Government relying on sympathy already shown and assurances given by the Powers concerned, believes that there is no difference of opinion between those Powers and China regarding principle involved; and it is prepared to consider and discuss within a reasonable time any representations made with reference to the plan now under report in Nanking. In this respect issuance of mandate of December 28 should be regarded as a step towards removing cause of constant conflict and at the same time promoting relations between Chinese and foreigners.

Nanking, December 30 1929.

Ends.

No. 189

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 1 Telegraphic [F 6959/64/10]

FOREIGN OFFICE, *January 1, 1930, 4.0 p.m.*

Mr. Aveling's telegrams Nos. 275¹ and 276² and your telegrams Nos. 1107³ and 1108⁴.

It is perhaps difficult to reconcile the terms of the mandate with point No. 1 of Dr. Wang's statement to Mr. Aveling. The mandate however does not purport to subject foreigners to the jurisdiction of Chinese courts nor does it expressly abrogate any particular treaty provision. This coupled with the renewed request to enter into detailed negotiations seems to make it desirable from the tactical point of view to assume that the mandate is intended to be a declaration of the character indicated in the final paragraph of my *aide-mémoire* of December 20.⁵ There is, however, some danger that the interpretation placed on the mandate by local officials may lead to unpleasant incidents. I propose therefore to hand to the Chinese Minister on January 1 *aide-mémoire*, text of which is contained in my immediately succeeding telegram.⁶ If you could arrange for copy to be communicated direct to Dr. Wang it should obviate necessity for making any direct communication to him on the subject yourself.

You should not, however, delay your departure for Nanking on account of the issue of the mandate.

A further telegram will be sent in reply to last paragraph of your telegram No. 1107.

Repeat to Tokyo.

¹ See No. 182.

² See No. 183.

³ No. 184.

⁴ No. 185.

⁵ See No. 174, note 3.

⁶ Not printed. For this *aide-mémoire*, printed also in Cmd. 3480 of 1930, pp. 5-6, see No. 194, note 1.

No. 190

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received January 2, 9.0 a.m.)

No. 10 Telegraphic [F 38/1/10]

PEKING, *January 2, 1930, 12.50 p.m.*

My telegram No. 1107.¹

At meeting last night of interested heads of Legations, French Minister read out résumé of statement which is being handed to Chinese Chargé d'Affaires in Paris today and copy of which is being simultaneously communicated at Nanking to Dr. Wang. Statement of which text is doubtless available to our Embassy in Paris constitutes a formal protest against

¹ No. 184.

Chinese mandate of December 28, maintains that it is invalid as regards French subjects and reserves to France full liberty of action should Chinese Government attempt to enforce it before existing French rights are modified as a result of negotiations.

United States Chargé d'Affaires has no news of any statement by his Government but had received intimation from State Department that mandate in no wise affected legal status of American citizens.

Netherlands Chargé d'Affaires had just learned that his Minister for Foreign Affairs prior to hearing of mandate from Peking but basing his remarks on a hint dropped by Chinese Chargé d'Affaires had warned the latter that unilateral abrogation was contrary to international law and would have no validity. Netherlands Chargé d'Affaires here is awaiting instructions before answering telegram from Dr. Wang similar to that quoted in my telegram No. 1108.²

Norwegian Chargé d'Affaires has replied to similar telegram that he hopes shortly to proceed to Nanking.

Repeated to Mr. Aveling.

² No. 185.

No. 191

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 7 Telegraphic [F 6997/64/10]

FOREIGN OFFICE, *January 2, 1930, 5.30 p.m.*

Your telegram No. 1107,¹ last paragraph.

Standing instructions to Commander-in-Chief (see your telegram No. 980,² paragraph 10) are in my view sufficient, and I do not think it necessary to consider enlarging their scope at present, or until a concrete case arises which is not covered by them and which appears to call for action.

¹ No. 184.

² No. 145.

No. 192

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received January 2, 1.30 p.m.)

No. 13 Telegraphic [F 41/1/10]

PEKING, *January 2, 1930, 5.45 p.m.*

My telegram No. 10.¹

At a meeting of the Corps Diplomatique this morning doyen enquired of all present what action, if any, their respective Governments were taking as a result of Nanking mandate of 28th December (which it transpired had

¹ No. 190.

been communicated to none of us officially) and what advice the different representatives had already tendered or contemplated tendering to their Governments.

I explained that we were awaiting instructions and outlined recommendations contained in our telegrams Nos. 1107 and 1108.² As regards France, America and the Netherlands, the situation remains as stated in my telegram under reference.

Italian Minister had already sent a note to Dr. Wang on January 1 making the most ample reservation regarding status of Italian subjects which he maintained remained unaltered as conditions laid down in exchange of notes of November 27, 1928 had not been fulfilled, viz., no arrangements for assumption by China of jurisdiction over Italian subjects had been made nor had all signatories of Washington treaties agreed to abolition of extraterritoriality. Danish Minister had received instructions to make formal reservation that Chinese laws could only be applied to Danish subjects after appropriate arrangements had been made with all signatories of Washington treaties, see Chinese-Danish exchange of notes December 12, 1928, and would act accordingly.

Portuguese, Spanish and Belgian representatives were not in favour of immediate protest or reservation though the two former thought that they might enter a reservation later. Belgian Minister was firmly resolved to ignore mandate as majority of Powers possessing extraterritorial rights had not yet agreed to abandon them, see Chinese-Belgian exchange of notes dated November 22, 1928. Swedish Chargé d'Affaires had not made up his mind what to advise. Norwegian representative took the line that as he had already some weeks ago informed Dr. Wang that he had been appointed by his Government to negotiate and had recently telegraphed to him that he hoped to proceed to Nanking to 'continue' negotiations after the New Year, he and his nationals were unaffected by the mandate.

Finally German Minister recorded his personal view that mandate was a statement of principle and in practice would make no difference in actual treatment of foreigners enjoying extraterritorial rights. It was a matter of tactics whether to weigh in with protests and reservations but he personally thought it unnecessary.

Repeated to Mr. Aveling.

² Nos. 184 and 185.

No. 193

Mr. A. Henderson to Sir M. Lambson (Peking)

No. 12 [F 22/1/10]

FOREIGN OFFICE, *January 4, 1930*

Sir,

The French Ambassador called at the Foreign Office on the 31st December, and in my absence read to Sir Victor Wellesley portions of a despatch from

the Quai d'Orsay, from which it appeared that it was M. Briand's intention to lodge a protest with the Nanking Government against the mandate which they had just issued on the subject of extraterritoriality.

2. The French Government would proceed alone in this matter, but would welcome any other Powers who might wish to join.

3. His Excellency asked what attitude His Majesty's Government proposed to take up. Sir Victor Wellesley replied that this was still under consideration, and that he could not therefore give him any definite answer. The mandate was couched in very skilful language, the object of the Nanking Government obviously being to satisfy their own supporters on the one hand and to avoid challenging the Powers on the other. It would be very difficult to construe this language as an open violation of treaty rights, but even if this view was wrong it did not appear that any useful purpose would be served by such a protest unless the Powers were prepared to refuse to negotiate and, if necessary, to maintain their position by the use of force. Indeed, such a protest might provoke the Chinese into doing something foolish or drastic, which would make the situation infinitely worse. It seemed fairly clear that the Nanking Government did not wish to push matters to extremes at the present moment, whatever they might have in store for us in the course of the negotiations. We had, however, not yet arrived at that point, and we need not therefore take that fence. For the moment it was quite clear that the Nanking Government did not propose to abolish extraterritoriality without previously negotiating with the Powers. It seemed therefore far wiser to interpret the mandate in the most favourable sense, namely, as a device on the part of the Nanking Government to extricate themselves from a very delicate position and not as an attempt to throw down the gauntlet to the Powers.

4. Sir Victor Wellesley reminded the Ambassador that in dealing with China, unless one really meant business, it was always better to try to meet the situation than to allow oneself to be overtaken by events.

5. Sir Victor Wellesley then showed His Excellency the draft of the *aide-mémoire* for presentation to the Chinese Minister, a copy of which was communicated to you in my telegram No. 2¹ of the 1st January, and said that he thought that that would be a better way of dealing with the situation. The *aide-mémoire* had not yet, however, received my approval, and Sir Victor Wellesley therefore begged him to regard it as confidential.

I am, &c.,

ARTHUR HENDERSON

¹ See No. 189, note 6.

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 17 [F 42/1/10]

FOREIGN OFFICE, January 6, 1930

Sir,

The Chinese Minister was asked to call at the Foreign Office on the 1st January, and in my absence Sir Victor Wellesley handed him the *aide-mémoire*, a copy of which is enclosed.¹

2. After he had read it through and expressed satisfaction, Dr. Sze said that Dr. Wang had telegraphed to him a few days ago to say that if we appeared to be unduly alarmed about the mandate, he was to reassure us that it had been worded for home consumption and that it was intended to leave the door open for negotiations.

3. Sir Victor Wellesley told the Minister that that was precisely how we had read it, otherwise the *aide-mémoire* which had just been handed to him might have been couched in different language. In the course of desultory conversation Dr. Sze said that he thought negotiations might last three years, but that Dr. Wang hoped that they might be of shorter duration.

I am, &c.,

ARTHUR HENDERSON

¹ This *aide-mémoire* read: 'His Majesty's Government have had under consideration the mandate issued by the Chinese Government on December 28th on the subject of extra-territoriality. His Majesty's Government assume that in issuing this mandate it was the intention of the Chinese Government to make a declaration of the character indicated in the final paragraph of the British *aide-mémoire* of December 20th. They have therefore authorised His Majesty's Minister to accept the invitation extended to him by the Minister of Foreign Affairs to enter into detailed negotiations on the subject and they understand that His Majesty's Minister is preparing to leave for Nanking on January 2nd. His Majesty's Government wish to take this opportunity of emphasising the great importance which they attach to the considerations set forth in the third paragraph of their *aide-mémoire* of December 20th. It is of the utmost importance that no untoward incidents should occur to imperil the smooth course of the negotiations about to be initiated. His Majesty's Government therefore fully expect that the Chinese Government will issue strict orders to all provincial and local officials that in accordance with the practice of civilised nations the treaty stipulations affecting the status and privileges of British subjects are to be regarded as continuing in full vigour and effect until modifications in the treaties in question have been agreed to as a result of negotiations.'

CHAPTER IV

Further correspondence with regard to the demands of the Chinese Government for the abolition of extraterritorial rights in China: agreement on the rendition of Weihaiwei (January 9–April 30, 1930)

No. 195

*Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received January 9, 6.40 p.m.)*

No. 7 Tour: Telegraphic [F 194/1/10]

NANKING, January 9, 1930, 1.10 p.m.

At initial discussion with Minister for Foreign Affairs today he brought up question of extraterritoriality and we agreed to have informal exchange of views before any formal meeting with experts. No minutes were kept.

2. He sketched out his plan which he said had already been put in in London. Geographical method, total abolition, special courts in five specified areas to which all foreign defendants might have their cases brought, with a foreign element.

3. I explained that I could only at present deal with general principles: if we could agree on them the moment might come when we might usefully have a technical committee to study details of their application. My first principle must be that of gradual abolition: unless that was admitted any progress would be difficult. Elaborating this theory I reminded him of the January offer and classified into three classes the cases to which we adhered: next would come question of safeguards. But I might say at once that His Majesty's Government as a result of great study were opposed to geographical method.

4. Next, as to what he meant by foreign element. He apparently contemplated foreign advisers and then only (if I followed him correctly) in criminal cases. I reminded him again of our classification and put it to him our negotiations would be immensely facilitated if he would agree to foreign judges. He hinted that this might be possible if we gave up criminal jurisdiction as well. I told him this was quite out of the question. To his direct enquiry whether our idea was to retain consular courts in China for certain classes of cases, I said most certainly yes.

5. Finally I obtained from him undertaking to send me his plan in writing so that I might see how far it might be possible to see where we (? were)¹ and

¹ The text is here uncertain. This word was suggested in the Foreign Office.

where it might be possible to build upon it: and we agreed to have another informal meeting before formal discussions with experts in attendance are opened.

6. I warned him several times during conversation of trying to hurry us too much: we were out to help him but were by nature slow and cautious movers and in his own interests he must not open his mouth too wide. For example neither His Majesty's Government, British Parliament or people would tolerate any surrender at present of criminal jurisdiction.

Repeated to Peking, Tokyo and Hong Kong.

No. 196

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received January 10, 9.30 p.m.)

No. 11 Tour: Telegraphic [F 204/1/10]

NANKING, January 10, 1930, 9.40 p.m.

My telegram No. 7.¹

At second interview today Minister for Foreign Affairs produced written skeleton of Chinese plan. This appears similar to that outlined in your telegram No. 437² with the exception of omission of proviso that cases between nationals of the same country may be heard outside China. He explained this had been omitted as similar proviso in the case of Turkey had not worked in practice. In its place Chinese Government proposed to enact a law covering arbitral awards as between all nationals in China.

2. As Chinese draft may have to be referred to subsequently, text follows in my immediately following telegram.³

3. I told him provision for arbitration was one of our points and that I welcomed Chinese intention: as to his written proposals I must study them carefully but I noticed at once that criminal jurisdiction was included. That I could not in any circumstances admit, and here I read him the second paragraph of your telegram No. 380⁴ to show him we were quite determined on that point. Next I turned to offer of judicial advisers and repeated that we wanted foreign judges. Finally he asked if I could give him rough skeleton just as he had done, of our ideas of a satisfactory agreement. I said I would see if this was possible on my present instructions and I might have to refer home.

4. Little progress will be possible until I do give him something in writing. Have I therefore your authority to crystal[l]ise the pith of your telegram No. 380 in written communication to him?

Repeated to Peking, Hong Kong and Tokyo.

¹ No. 195.

² Not printed. See No. 138, note 2.

³ No. 197.

⁴ No. 116.

No. 197

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received January 10, 8.0 p.m.)

No. 12 Tour: Telegraphic [F 205/1/10]

NANKING, January 10, 1930, 9.40 p.m.

My immediately preceding telegram.¹

Following is the Chinese text. Begins.

1. Beginning from January 1, 1930 all British subjects in China shall obey its laws, ordinances and regulations duly promulgated by the central and local governments of China.

2. All British subjects in China shall be subject to the jurisdiction of Chinese modern courts.

3. In district courts in Canton, Hankow, Shanghai, Tientsin and Harbin and in high courts having appellate jurisdiction over such district courts a special chamber shall be established for exclusively dealing with civil and criminal cases in which a British subject is the dependant [*sic* ? defendant].

(The territorial jurisdictions of special chambers need not correspond with the territorial jurisdictions of courts to which they belong, but they cannot be too wide.)

4. The Chief judge of a special chamber shall be the President of the court to which the chamber belongs. Other judges of special chamber as well as its procurators shall be selected from among legal scholars with training of a long duration. Their names, ranks and salaries together with their past experiences will be made known to the public.

5. To each special chamber shall be attached a certain number—say from 1 to 3—of legal advisers who shall be selected by the Chinese Government from among foreign well-known legal experts and whose names together with their past experience will be made known to the public.

6. The legal adviser shall not in any way participate in trial of cases, but in courts of first and second instances, he may have access to the file of the proceedings and present in writing his views on legal questions.

The judges shall give due consideration to the views thus expressed by the legal adviser but may always render their decisions independently of such views.

7. Any British subject arrested by the police on suspicion of having committed a crime shall, within twenty-four hours after arrest, exclusive of holidays, be sent to the nearest court for trial.

8. The arrangement regarding special chambers and legal advisers shall terminate after a period of two years.

Repeated to Peking, Hong Kong and Tokyo.

¹ No. 196.

Sir E. Howard (Washington) to Mr. A. Henderson (Received January 21)

No. 36 [F 404/1/10]

WASHINGTON, January 10, 1930

Sir,

With reference to my telegram No. 610¹ of the 28th December, 1929, I have the honour to report that on the receipt of news of the Chinese Government's intention to declare, by unilateral decree, the abolition of extraterritorial rights in China as from the 1st January, 1930, the United States Secretary of State announced on the 27th December last that the United States Government had no intention of departing from the policy laid down in the American note to China of the 10th August last, namely, that American extraterritorial rights in China might be gradually relinquished, provided that simultaneous progress were made in the enactment and effective enforcement in China of laws based on modern concepts of jurisprudence.

2. According to the Washington correspondent of the New York 'World', the Chinese Minister in Washington, on the same date, stated that he had received no word of the Nanking Government's reported move, and added: 'We have been carrying on negotiations for a long while, but I do not think that extraterritoriality will be abolished in China, so far as the United States is concerned, until China and the United States have reached a friendly agreement.' A similar expectation was expressed on the 30th December by the Under Secretary of State, Mr. Cotton, who, however, appears to have emphasised the informal character of the 'discussions' or 'conversations' which had been proceeding with the Chinese Minister, and to have stated that there could be little prospect of their resulting in agreement 'until China can give assurances to the American Government that Chinese laws afford American citizens and American property in China as much protection as do the American systems of law in force there'.

3. The possibility of joint diplomatic action by the interested foreign Powers appears to have been mentioned by spokesmen of the State Department. According to the correspondent of the Associated Press, 'the attitude in official circles was that if those Powers unite in opposition, little can be done by the Chinese to enforce the decree'; while the correspondent of the New York 'Times' referred to the fact that the United States has 'no set policy of refraining from joint diplomatic action in China'.

4. In any case, comfort was derived from the statement of the Chinese Minister for Foreign Affairs, reported on the 31st December, that the Chinese Government was 'prepared to consider and discuss within reasonable time representations made with reference to the plan under preparation at Nanking'. Moreover, the publication on the 1st January in reports from London of the text of the *aide-mémoire* handed to the Chinese Minister on the 20th December, and of the Chinese Minister's reply expressing appreciation of the

¹ No. 180.

'liberal and sympathetic spirit' evinced by His Majesty's Government, appears to have convinced the American press that the decree abolishing extraterritoriality was only a face-saving device for the establishment of a legal fiction, convenient to the Chinese Government for reasons of internal prestige. Due credit has been given to His Majesty's Government for their ingenuity in assisting the Chinese Government to extricate itself from what is recognised to have been an awkward predicament.

5. Speaking to Mr. Cotton to-day on this subject, I enquired of him whether any reply had been returned to the Chinese note, which I had understood from our last conversation on this subject (reported in my telegram No. 610 of the 28th December) had been presented some time in December to the State Department, informing them that the Chinese Government intended on the 1st January to declare the abolition of foreign courts of law in China, but that three months' grace would be allowed to discuss with the treaty Powers precisely what system should take their place. Mr. Cotton said that I had been mistaken in supposing that the Chinese Minister had handed in any note to that effect, since the only communication in writing that had been received by the State Department had been a copy of the decree issued by the Chinese Government on the subject on the 28th December. But it was possible that as Mr. Nelson Johnson had had several conversations with Dr. Wu, the Chinese Minister, the latter may have said something to him about the Chinese Government being willing to give three months for negotiations before enforcing their decree. It strikes me as possible that since the Chinese Minister for Foreign Affairs declared on the 30th December that the Chinese Government was prepared to consider and discuss within reasonable time representations made with reference to the plan under preparation at Nanking, Dr. Wu may have said something about three months to Mr. Johnson, as representing a reasonable time. Mr. Cotton went on to say that Mr. Nelson Johnson having already left, it was impossible to consult him on this point, but he called on Mr. Hornbeck, the present head of the China Department, to see if he could throw any light upon it. Mr. Hornbeck said he did not remember all that had passed between Mr. Johnson and Dr. Wu, but he would look up Mr. Johnson's memoranda and see if he could find any record of such a conversation. In the meantime, the matter in this particular seems to have become more or less of academic interest only, as it seems to be believed at the State Department that the Chinese Government only issued the decree of the 28th December as a gesture to satisfy their followers, and have no present intention of enforcing its terms without previous agreement.

6. Mr. Hornbeck has since sent me a copy of a memorandum, which I enclose herewith,² which the State Department communicated on the 28th December to Dr. Wu, making the attitude of the United States Government once more perfectly clear by refusing definitely to accept any unilateral settlement of this question. Mr. Hornbeck thought that this document, as

² Not here printed. For this memorandum dated January 4 see *Foreign Relations of the United States 1930*, vol. ii, pp. 359-60 and note 44.

well as the warnings given to China by the British and French Governments, had probably made the Chinese Government pause, and content themselves with having enunciated the principle of 'inherent jurisdictional sovereignty'. The United States Legation in China had, he said, been instructed not to make any change in the functioning of consular courts, but to carry on as before the decree, until some agreed settlement could be arrived at.

7. As regards the place of future negotiations, Mr. Cotton gave me to understand confidentially that when Mr. Nelson Johnson arrived in China he intended to entrust the negotiations to him there. 'Otherwise', he said, 'what would have been the use of our sending him there?' I gathered, however, that for the moment 'conversations' would be allowed to continue in Washington.

8. A copy of this despatch is being forwarded to the High Commissioner for the United Kingdom in Canada.

I have, &c.,

ESME HOWARD

No. 199

*Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received January 11, 2.50 p.m.)*

No. 13 Tour: Telegraphic [F 236/103/10]

NANKING, January 11, 1930, 5.40 p.m.

Weihaiwei.

At meeting with Minister for Foreign Affairs on January 11 I explained my instructions namely that question of foreign property rights on mainland could be settled either by protecting them on lines of 1924 agreement or by buying them out at full value but that question of naval facilities was vital and that His Majesty's Government must insist on provisions of 1924 agreement.

2. After a discussion in which Minister for Foreign Affairs urged first three years and then five years with one renewal we eventually agreed to refer to our respective Governments following proposal. Article 23 to stand unchanged but attached exchange of notes to be omitted. Facilities to be in principle as detailed in draft agreement: he appeared to make no difficulties about attached list of naval facilities. Provisions affecting mainland to be revised in sense of cutting out unnecessary detail (see paragraph 19 of my despatch of June 28¹ last year). Clause to be inserted providing for buying out of property owners by agreement between the two Governments through joint commission to assess compensation in the event of Chinese Government desiring later on to close the port.

Remainder follows.²

Repeated to Peking, Commander-in-Chief and Weihaiwei.

¹ No. 60.

² See No. 200.

No. 200

*Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received January 11, 2.50 p.m.)*

Unnumbered Tour: Telegraphic [F 236/103/10]

NANKING, January 11, 1930, 5.40 p.m.

My telegram No. 13.¹

3. Minister for Foreign Affairs seems anxious, doubtless for political reasons, to reach a settlement. Above represents in my opinion the best terms we are ever likely to obtain and I strongly recommend that I be authorized with the least possible delay to negotiate immediate settlement on above lines.

¹ No. 199.

No. 201

*Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received January 11, 2.50 p.m.)*

No. 15 Tour: Telegraphic [F 250/103/10]

NANKING, January 11, 1930, 7.50 p.m.

Following for Sir V. Wellesley.

My telegram No. 13.¹

In my opinion we shall be most ill-advised if we do not close with Wang's present offer and the sooner we do so the better. It is most unlikely that we can get anything better and if we give them too long their mood may change. It would be a great thing to get Weihaiwei off the slate before we got up against the extraterritoriality snags ahead.

¹ No. 199.

No. 202

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received March 11)

No. 8 Tour [F 1364/61/10]

NANKING, January 13, 1930.

His Majesty's Minister, Peking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs, and transmits herewith copy of a record of conversation with Sir F. Whyte respecting the political situation and extraterritoriality.

ENCLOSURE IN NO. 202

Record of a Conversation with Sir F. Whyte

NANKING, January 10, 1930

Last night Sir Frederick Whyte called by appointment at 6 o'clock and stayed over an hour and a half. He had nothing very special to say, but we meandered over the whole field of current politics.

I gathered from him that there was some danger of the publication in the near future of the Chinese plan for the assumption of jurisdiction over foreigners. I explained to him in general outline the nature of my instructions regarding the gradual surrender of our rights, and we agreed that, in the circumstances, it was very undesirable that the Chinese should commit themselves to any published plan of their own which might only make matters more difficult for themselves and for us. I gathered that he would put this point to President Chiang Kai-shek, who, so he said, was quick to take such points.

From what he said, I gathered that the situation of the Government is still regarded as very far from stable, and that Chiang Kai-shek himself is the first to realise this. The trouble apparently is that the President is so busy with the military side that he has no time to concentrate on the other and more constructive side of government; but, at present, some general message is in contemplation laying down the future policy which the Government shall follow as regards domestic reconstruction. It all seemed a trifle vague, but I gathered the gist of it to be that this message would prescribe exactly what practical subjects each Ministry should concentrate upon. I also gathered that the ban on Wang Ching-wei¹ had been engineered by the Central Executive Committee and had been more or less forced on Chiang, probably by Hu Han-min² more than anybody else, who is a particular personal enemy of Wang.

The above is only a very rough epitome of our talk; but one point which Sir Frederick made was that C. T. Wang is nothing but a mouthpiece in this question of extraterritoriality, and that the two men who really count in it are Hu Han-min and, in a lesser degree, Wang Chung-hui.

MILES W. LAMPSON

¹ Mr. Wang Ching-wei had been expelled for life from the Kuomintang party in December 1929.

² President of the Legislative Yuan.

No. 203

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received January 14, 9.15 p.m.)

No. 23 Tour: Telegraphic [F 293/103/10]

NANKING, January 14, 1930, 6.30 p.m.

My telegram No. 13.¹
Weihaiwei.

At meeting on January 13 informal discussion was resumed pending receipt of your instructions on my telegram above referred to before opening detailed negotiations for revision of 1924 draft: some progress was made on following lines.

2. Minister for Foreign Affairs proposed that 1924 draft should be split into two agreements, one governing terms of rendition (safeguarding of foreign property rights etc.) and the other governing terms of naval facilities. I agreed that this was a reasonable proposal provided latter agreement comprised all naval stipulations in 1924 draft, in which Minister for Foreign Affairs concurred.

3. It was agreed that all clauses safeguarding property rights would be subject to a blanket provision on lines of last sentence, second paragraph of my telegram above referred to.

4. Going through 1924 draft article by article we agreed tentatively on following modifications the understanding being that redrafted articles would be regrouped in two separate agreements.

5. Referring to list of proposed Chinese modifications enclosed in my despatch of June 28 last² I agreed in principle and subject to views of Commissioner of Weihaiwei to accept changes in articles 7, 9, 12, 13, 16, 17, 18, and 19. Articles 14, 15, 20 and 22: Chinese will withdraw their counter-draft of these articles but a formula will have to be found to cover possible closing of port later on—see third paragraph above; subject to this proviso Minister for Foreign Affairs said he had no objection to perpetuate (? perpetual)³ leases on Chinkiang precedent⁴; and he definitely stated there would be no intention at present of cancelling residential rights of existing Crown lessees on the island—see paragraph 15 of my despatch to Weihaiwei of May 3rd last.⁵ Article 21 is reserved but Minister for Foreign Affairs said he thought he could accept Tsingtao precedent. Article 23 stands with deletion of words 'free of charge'. Article 24; Minister for Foreign Affairs objects to this as derogatory but seemed not indisposed to accept main stipulation against permitting brothels or sale of intoxicants [*sic*] in a separate declaration; I said this provision must come in somewhere. Article 25 stands subject to addition of some provision that a foreign man-of-war already berthed in harbour need not withdraw to make way for a newly arrived British ship.

¹ No. 199.

² This enclosure in No. 60 is not printed.

³ This suggestion was made in the Foreign Office.

⁴ Cf. No. 1 at note 18.

⁵ Not printed.

Article 26 stands with alteration of words 'treaty ports' to 'commercial ports'. Article 27; first paragraph to go into rendition agreement with omission of reference to maritime customs; second paragraph to go into naval agreement. Article 28 to be omitted. Article 29; no reference to a ruling text provided agreement can be reached on Chinese translation. Annex 1 to be omitted or included in a letter from me to Minister for Foreign Affairs. He did not however seem to want it. Annex 2 stands. Annex 3 stands and Chinese seem ready to agree to inclusion of officers' recreation ground and squash court as desired by Commander-in-Chief last summer. First exchange of notes to be omitted. Second exchange of notes to be omitted except for first year [*sic* ? paragraph] which will be worked into naval loan agreement or attached as a (? declaration)⁶; Minister for Foreign Affairs pressed insistently for omission of words 'medical officer of health or'. I failed to shake him, and 'associate medical officer' seems adequate. All other documents to be omitted.

6. If I receive your authority to negotiate an immediate settlement on terms proposed in my telegram No. 13 I shall arrange for Mr. Teichman to prepare in collaboration with Mr. Hsu Mo (nominated by Minister for Foreign Affairs for the purpose) a new draft in form of two agreements on lines indicated in preceding paragraph subject to views of Commander-in-Chief and Commissioner, to whom this telegram is being repeated. This draft will then be referred for consideration to myself and Minister for Foreign Affairs.

Repeated to Weihaiwei, Commander-in-Chief, and Peking.

⁶ The text is here uncertain.

No. 204

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received January 15, 9.0 a.m.)

No. 27 Tour: Telegraphic [F 298/1/10]

NANKING, January 15, 1930, 1.50 a.m.

Extraterritoriality.

I have recently had friendly and informal discussions with Wang Chung-hui and Hu Han-min who I learn on good authority are at present mainly responsible for China's extraterritoriality policy.¹ In both cases I outlined His Majesty's Government's plan and explained I was awaiting your instructions before communicating it in writing to Minister for Foreign Affairs.

2. Dr. Wang expressed agreement with our view that geographical method was inadvisable and that it was better to approach problem subject by subject, on question of foreign co-judges he said matter had been considered at great length during past year and that all his colleagues were opposed to it. I tried to shake him by using obvious arguments but failed. Finally he brought

¹ See No. 202.

discussion to a head by arguing that while great majority of cases would be disposed of by Chinese Courts satisfactorily it was evident that we only required foreign co-judges or other safeguard for dealing with unsatisfactory cases and that we should concentrate on devising some means for dealing with latter. Exploring this line of thought he said in reply to my enquiry he did not contemplate foreign co-judges but that he thought something might be evolved in way of introduction of a foreign element into machine for dealing with cases with which we were dissatisfied. I made it plain that under my instructions I was not authorised even to consider any deviation from principle of foreign co-judges. On the subject of arbit[r]al awards he said that it was on his suggestion that his colleagues had agreed to legislation making such awards binding in Chinese Courts.

3. Hu Han-min's comments on our plan were as follows. He himself accepted theory of gradual and evolutionary abolition (though there were others in the party who would move faster) and it was thus that mandate had been issued establishing principle of abolition but giving time for detailed arrangements; as regards our proposals for dealing with cases in general order (1), civil, (2) criminal and (3) personal, he accepted reservation of the last but found difficulty in separating civil from criminal jurisdiction. The Chinese people were impatient and it was especially the abuses connected with criminal jurisdiction which aroused resentment. He instanced foreign protection of gambling and kidnapping. (I said we were entirely with him on this latter point and would willingly seek to devise means for covering gambling etc.)

(? Hu Han-min)² expressed strong disapproval of foreign co-judges and said that his Government would be quite unable to overcome popular opposition to any such proposal which would be regarded as a retrograde step.

4. I have little doubt that if a solution is to be found it will be through close personal touch with these two men both of whom, however difficult they may be to deal with (? even on a)³ common ground are willing and anxious to discuss all the aspects of the problem in a frank, friendly and reasonable spirit.

Hu Han-min spoke very highly of His Majesty's Government's policy and evidently much appreciated message recently communicated to him from Prime Minister.⁴

Repeated to Peking, copies to Mr. Aveling, Nanking, Shanghai, Tokyo and Hong Kong.

² The text is here uncertain.

³ The text is here uncertain. A pencil note on the file copy suggests that the passage in brackets should read 'in reaching'.

⁴ Mr. Hu Han-min and Dr. Sun Fo had sent a message to Mr. MacDonald on the occasion of the issue of the mandate of December 28, 1929. The reply from the Prime Minister sent on January 3, 1930, read: 'I thank you for the friendly sentiments contained in your message. As you are aware His Majesty's Government are ready to enter into negotiations looking to the eventual abolition of extraterritoriality by gradual and progressive stages. I trust that no untoward incident will be allowed to occur such as would impede the course of negotiations on this intricate subject.'

No. 205

Mr. A. Henderson to Mr. Garstin (Shanghai)

No. 8 Telegraphic [F 205/1/10]

FOREIGN OFFICE, *January 15, 1930, 4.0 p.m.*

Following for Sir M. Lampson:—

Your telegrams Nos. 7,¹ 11² and 12³.

I approve action proposed in paragraph 4 of your telegram No. 11 but please telegraph draft for my consideration before presenting it.

Repeat to Tokyo.

¹ No. 195.

² No. 196.

³ No. 197.

No. 206

Sir M. Lampson (Shanghai) to Mr. A. Henderson
(Received *January 17, 4.15 p.m.*)

No. 35 Tour: Telegraphic [F 351/103/10]

SHANGHAI, *January 17, 1930, 4.15 p.m.*

Naval Commander-in-Chief and Commissioner Weihaiwei both fully concur in proposed basis of settlement. It would be most helpful if I could receive instructions in time to go ahead with Minister for Foreign Affairs here in Shanghai on Monday.¹ Circumstances will otherwise prevent our resuming conversations in Nanking before Friday January 24 and I judge it important to clench [*sic* ? clinch] matter as soon as possible.

Repeated to Peking and Weihaiwei.

¹ January 20, 1930.

No. 207

Sir M. Lampson (Shanghai) to Mr. A. Henderson
(Received *January 18, 9.30 a.m.*)

No. 36 Tour: Telegraphic [F 377/1/10]

SHANGHAI, *January 18, 1930, 12.50 p.m.*

Your telegram No. 8.¹

Following is draft of proposed text. As Minister for Foreign Affairs pressed me for it again yesterday I request early instructions upon it.

1. The abolition of extraterritoriality must be a gradual and evolutionary process and extent of initiative that can be made in the present system and rate of subsequent progress must be determined by the extent to which

¹ No. 205.

Chinese Government accept this underlying idea and nature of safeguards that they may be willing to erect at each stage of the process.

2. Such progressive abolition should follow method of transfer of jurisdiction by subjects in general order of (i) civil cases (ii) criminal cases and (iii) personal status cases.

3. The most that they can envisage in the near future is (i) civil cases, and that there should be no general transfer of criminal jurisdiction until experience gained of administration of civil jurisdiction demonstrates that criminal cases can also be safely transferred.

4. The civil jurisdiction to be transferred must be limited to those classes of cases in regard to which codes have been promulgated and actually put into operation.

5. Jurisdiction in transferred cases can only be entrusted to such modern courts as are efficiently organized and adequately staffed.

6. The extent of transferred jurisdiction might thus be widened as and when the new codes are promulgated and enforced and the number of suitable modern courts are [*sic*] increased. In the meantime however His Majesty's Government are prepared to repeat the offer made by them in January 1927 that Chinese law should be progressively applied in British courts in China.

7. Adequate safeguards in administration of justice must be furnished with special reference to: (a) protection against administrative interference with courts of military and other non-judicial authority. (b) protection against unreasonable and irregular taxation and all forms of such extortion by administrative action. (c) protection against interference with liberty of subject and against domiciliary visits and vexatious inspection of premises, factories, etc., and against arbit[r]ary interference with shipping. These safeguards should, in the view of His Majesty's Government, take the form *inter alia* of judges of foreign nationality employed by Chinese Government in Chinese courts to which jurisdiction over British subjects may be progressively transferred; of right of foreign litigants to be represented by foreign lawyers of their own choice; and by [*sic* ? of] some system of evocation.

8. Suits between British subjects would continue for the present to be heard in British courts.

9. His Majesty's Government consider it desirable that arbitral awards in cases between British subjects and other foreigners and Chinese should be recognised and enforced by Chinese courts.

Repeated to Peking, Hong Kong and Tokyo.

No. 208

Mr. A. Henderson to Mr. Garstin (Shanghai)

No. 12 Telegraphic [F 351/103/10]

FOREIGN OFFICE, *January 18, 1930, 2.45 p.m.*

Following for Sir M. Lampson.

Your telegram No. 35¹.

I regret that it is impossible to give you further instructions by Monday.² Departments concerned have not yet furnished me with their views and Colonial Office are awaiting a reply to a telegram sent to Commissioner of Weihaiwei. Matter will however be dealt with as expeditiously as possible.

I presume that political situation in Shantung is not in your opinion such as to make early rendition objectionable.

¹ No. 206.

² January 20.

No. 209

Sir M. Lampson (Shanghai) to Mr. A. Henderson
(Received *January 19, 2.0 p.m.*)

No. 44 Tour: Telegraphic [F 384/103/10]

SHANGHAI, *January 19, 1930, 7.45 p.m.*

Your telegram No. 12 to Shanghai¹ last paragraph.

No: I consider we shall be most foolish if we get drawn away now from essentials and fail to close with present offer as quickly as possible.

Repeated to Peking.

¹ No. 208.

No. 210

Mr. A. Henderson to Mr. Garstin (Shanghai)

No. 14 Telegraphic [F 377/1/10]

FOREIGN OFFICE, *January 20, 1930, 6.15 p.m.*

Following for Sir M. Lampson:

Your telegram No. 36.¹

I approve draft subject to following amendments which I suggest for your consideration:—

Paragraph 1:—For 'initiative' read 'initial modifications' (this is correct reading of equivalent passage in my telegram No. 380²).

¹ No. 207.

² No. 116.

Paragraph 7:—delete (b) and substitute ‘Protection against unreasonable and irregular taxation, against oppressive methods of assessing or levying taxes and against all exactions enforced by executive authority without due process of law.’

Repeat to Tokyo and Hong Kong.

No. 211

Mr. A. Henderson to Sir E. Howard (Washington)

No. 115 [F 301/1/10]

FOREIGN OFFICE, *January 21, 1930*

Sir,

I have received your despatch No. 11¹ of the 2nd January transmitting a copy of a letter with two enclosures from the Assistant Secretary of State on the subject of extraterritoriality in China.

2. Paragraphs 4 and 8 of the *Aide-Mémoire* enclosed in Mr. Johnson's letter refer to the difficulty which the American Government has in understanding the proposal that suits between British subjects should continue to be heard in British courts. I should be glad, therefore, if you would give the following explanation to the American Government of His Majesty's Government's policy in this matter.

3. In the case of suits brought by British plaintiffs against Chinese defendants His Majesty's Government have adopted the same attitude as that described in paragraph 4 of the American *Aide-Mémoire*. In the case of suits brought by Chinese plaintiffs against British defendants His Majesty's Government contemplate negotiating the transfer of jurisdiction from the British courts to the Chinese in the manner outlined in the *Aide-Mémoire* communicated by you to the State Department on November 18th last.² In the case, however, of suits brought by a British plaintiff against a British defendant, namely, suits between British subjects, His Majesty's Government propose that such suits should continue to be heard in British courts.

4. I take this opportunity to refer to a slight error, due no doubt to a mistake in telegraphic transmission, in paragraph 8 of the *Aide-Mémoire* enclosed in Your Excellency's despatch No. 2146² of the 19th November. The phrase ‘with provision of a British or other legal assistant’ should read ‘with provision of British or other legal assistance’. It may be desirable to bring this correction to the attention of the Department of State.

I am, &c.,

ARTHUR HENDERSON

¹ Not printed. This formal despatch transmitted copies of the letter and enclosures referred to in No. 165, notes 3 and 6.

² Not printed. See No. 132, note 2.

Mr. Campbell (Washington) to Mr. A. Henderson
(Received January 28, 12.30 p.m.)¹

No. 33 Telegraphic [F 591/1/10]

WASHINGTON, *January 28, 1930, 3.30 p.m.*¹

Extraterritoriality.

My immediately following telegram² contains outline of possible provisions of agreement handed by United States Government to Chinese Minister on 23rd January for purposes of discussion without present commitment. United States Government specially stated that this was not to be regarded as a definite offer but as material for study.

In handing text to me on January 25 head of Far Eastern department said he wished to keep His Majesty's Government informed of what was passing between State Department and Chinese Minister as he personally felt it was highly important we should all be shoulder to shoulder in this matter. State Department were grateful for communication of your suggestions (your telegram No. 380 to Peking³). He had seen that Chinese Foreign Minister had communicated certain proposals to His Majesty's Minister. No such proposals had been made to United States Government—he did not know why. He supposed Sir M. Lampson was now negotiating with C. T. Wang on lines of your telegram No. 380 to Peking. Latter was of course more in nature of statement of principles than present more detailed United States outline of possible provisions of agreement. If more detailed instructions were being sent to Sir M. Lampson he would be grateful for any information His Majesty's Government might be able to give as to their nature. I said I knew of no further and more detailed instructions. No doubt it would be left to Sir M. Lampson to work out details with Wang and in consultation with you within framework already indicated by you. During the conversation Dr. Hornbeck said he was anxious to receive any particulars His Majesty's Government felt able to furnish regarding your statement in House of Commons on January 22 regarding surrender of treaty privileges of British missionaries,⁴ this being a matter in which United States Government were much interested.

¹ There would appear to be a discrepancy between the times of despatch and receipt.

² Not printed. This telegram transmitted a summarized version of the outline of possible provisions of agreement printed in full in *Foreign Relations of the United States 1930*, vol. ii, pp. 363–7. Washington telegrams Nos. 37 and 38 of January 28 (not printed) transmitted a summarized version of the Annex to the outline of possible provisions of agreement printed *ibid.*, pp. 368–72.

³ No. 116.

⁴ See Parl. Deb., 5th ser., H. of C., vol. 234, cols. 213–14.

No. 213

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 3, 9.0 a.m.)

No. 54 Tour: Telegraphic [F 669/103/10]

NANKING, February 3, 1930, 1.10 p.m.

I have arrived today¹ in Nanking and am most anxious to get on with Weihaiwei negotiations while present favourable atmosphere lasts and before we get seriously involved in extraterritoriality negotiations when present receptive atmosphere may well change for the worse. After consultation with Commander-in-Chief and Commissioner I have prepared two draft agreements in accordance with my telegrams Nos. 13² and 23³ and I propose, as soon as I receive your authority to negotiate on proposed lines, to submit them to Minister for Foreign Affairs and endeavour to reach an immediate settlement with him *ad referendum* to our respective Governments. Commander-in-Chief and Commissioner strongly support proposed settlement. I regard the matter as really urgent and further delay most undesirable and I earnestly beg for immediate instructions on my telegram No. 13 of January 11.

Repeated to Weihaiwei, Commander-in-Chief and Peking.

¹ This telegram was drafted on February 2.

² No. 199.

³ No. 203.

No. 214

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 4, 8.45 p.m.)

No. 58 Tour: Telegraphic [F 700/1/10]

NANKING, February 4, 1930, 1.50 p.m.

Extraterritoriality.

Your telegram No. 14 to Shanghai.¹

1. I handed a copy of our programme to the Minister for Foreign Affairs at interview on February 3. He made following comments indicating points of divergence from Chinese point of view.

2. He observed that even in regard to civil cases we appeared to contemplate only limited and conditional transfer of jurisdiction and on my referring him to paragraph 4 he said promulgation of all codes excepting those relating to personal status was practically completed. He enquired what was meant by words 'satisfactory to both Governments' and did not seriously demur when I said we would of course have to examine codes.

3. Referring to paragraph 8 he expressed disappointment at our reserving cases between British subjects for British courts *in China*; Chinese Government aimed at abolition of all foreign courts on Chinese soil.

¹ No. 210.

4. Referring to paragraph 7 he said that any system of foreign co-judges would be difficult for Chinese Government to accept. When I explained that this was cardinal point in our plan in connexion with safeguards he said that without committing his legal colleagues or his Government he would like to enquire whether if China agreed to employment of foreign co-judges His Majesty's Government would agree to surrender criminal jurisdiction. I said I had no authority to discuss such a suggestion beyond possibly going part of the way to meet them by surrendering certain classes of minor criminal cases such for instance as those relating to gambling and gaming. I urged strongly the advantages of foreign co-judge plan but he insisted that China could not consider it *except in return for surrender of criminal jurisdiction*.

5. Next point he took up was that of our desire for abolition by gradual and evolutionary process as opposed to China's demand for immediate abolition. This he explained was clearly a question of dates. China could never agree to so indefinite an arrangement as that envisaged in third paragraph under which any transfer of criminal jurisdiction might be indefinitely delayed. I argued at length that system must prove itself, that degree and efficiency of safeguards introduced must rule rate of progress, and that fears of our people must first be proved by actual experience to be groundless. He insisted that there must be fixed dates for various stages including (as I had introduced the point), say, rights of evocation in criminal cases for a certain number of years. China was prepared to consider a worse arrangement than Turkey secured but could not possibly agree to worse terms than Siam. He suggested in illustration of his theory of dates transfer of civil jurisdiction on July 1 and criminal jurisdiction on January 1 next. I refused to follow him on to this ground.

6. Reverting to foreign co-judges and foreign counsellors he said in reply to my enquiry that if we could not see our way to considering former *plus* transfer of criminal jurisdiction there remained Chinese plan for employment of latter who he explained in reply to my further enquiry would be selected from best foreign jurists available and added (when pressed) that they might very likely be chosen with assistance of the Hague Court and engaged on a contract basis for two years or whatever time limit might be fixed. He suggested that foreigners should be satisfied with men of calibre of Judge Feetham.²

7. Discussing question of safeguards with special reference to taxation, he expressed his agreement to our *desiderata* as formulated in paragraph 7 which he said were as necessary for Chinese as for the foreigner. I explained our fears in regard to enforcement of arbitrary and unreasonable taxation by local courts if protection of extraterritoriality were withdrawn and he said that he felt sure that point could be covered by special clauses limiting taxation to that levied under National enactments by due process of law.

² Mr. Justice Feetham, a judge of the Supreme Court of the Union of South Africa, had accepted an invitation sent in November 1929 by the Municipal Council of Shanghai to study and report on the general position of the International Settlement. Mr. Justice Feetham arrived in Shanghai on January 13, 1930.

I said we should require very specific safeguards in this respect including provision against unfair assessment in case of levies such as municipal taxes and should want to examine laws under which particular taxes would be enforced.

8. At conclusion of interview I enquired whether I was to take his observations as considered comments on our plan. He replied in the affirmative and referred especially to 'hypothetical question' he had put as to whether if China agreed to employment of foreign co-judges we would surrender criminal as well as civil cases.

9. United States Minister, to whom I have communicated copy of our plan, informed me February 3 before I interviewed Minister for Foreign Affairs that his Government were submitting communication through Chinese Minister in Washington embodying principle of foreign legal counsellors and *not* co-judges. We may therefore find ground cut from under our feet on this point as I emphasized to him, urging that this confirmed our conviction that negotiations between United States and China should be conducted by himself here to prevent our being thus played off against each other. Though non-committal, he seemed to realize danger, which I suggested it might be well to emphasize in Washington.

10. I should be grateful for your early observations and instructions on the above and more especially regarding practical offer of foreign co-judges if we give up criminal cases.

Repeated to Peking, Shanghai, Hong Kong and Tokyo.³

³ This telegram was repeated by the Foreign Office to Washington on February 10 as Nos. 91/92.

No. 215

Mr. A. Henderson to Mr. Campbell (Washington)

No. 64 Telegraphic [F 624/1/10]

FOREIGN OFFICE, *February 5, 1930, 2.15 p.m.*

Your telegram No. 38 and previous telegrams.¹

Sir M. Lampson has received no further instructions on this subject of extraterritoriality except those contained in my telegram No. 3 to Nanking² which is now being repeated to you together with Sir M. Lampson's telegrams Nos. 7, 11 and 12³ containing reports of his discussions to date. My immediately succeeding telegram⁴ contains text of memorandum which Sir M. Lampson has presented to Chinese Minister for Foreign Affairs.

¹ See No. 212 and note 2.

² Not printed. This telegram of January 9 discussed the question of the possible inclusion within the scope of the negotiations concerning extraterritoriality of the subject of the taxation of British residents in China, and in particular the question of the possible transfer of jurisdiction in such cases to Chinese courts.

³ Nos. 195, 196, and 197.

⁴ Not printed. For the text of this memorandum see Nos. 207 and 210.

Your telegrams under reference are being repeated to Sir M. Lampson for his information and observations.

Repeated to Nanking No. 11.

No. 216

Mr. A. Henderson to Mr. Hewlett (Nanking)

Nos. 12 and 13 Telegraphic [F 628/103/10]

FOREIGN OFFICE, *February 5, 1930, 9.15 p.m.*

Following for Sir M. Lampson:

Your telegram No. 13.¹

His Majesty's Government accept in principle the proposed basis of agreement and work of drafting text as suggested in paragraph 6 of your telegram No. 23² can be put in hand at once. We have no objection to division of 1924 draft into two parts if Chinese Government desire that this should be done.

There are however certain matters concerning which all doubt must be removed before the revised agreement can be signed and rendition can actually be effected.

(a) Article 23. It is presumed that the omissions [*sic*] of the words 'free of charge' do not mean that any rent is intended. This should be made quite clear.

We are however concerned at prospect of large additional expense for navy if facilities are not renewed after ten years, naval assets on the island are given up without compensation and we have to re-provide alternative amenities elsewhere. Even such slender support as first exchange of notes should not therefore be abandoned without a serious effort. Possibly it might help if words 'or on such other terms as may be agreed upon' were substituted for words 'by agreement' in Article 23, idea being that if Chinese want to charge a reasonable rent after first ten years as a condition of renewing the loan we should be ready to pay it. If you think so you are authorised to offer this alteration.

(b) Article 24. (See paragraph 5 of your telegram [No.] 23.) So long as main stipulation is accepted we have no objection to the relevant provision being included in a separate declaration.

(c) Article 26. We presume that the alteration of 'treaty ports' to 'commercial ports' is only intended to meet Chinese objection to use of former expression as derogatory and that the naval facilities provided in this article will not in practice be reduced as a result of the amendment. This should be made clear. 'Ports open to foreign trade' might be preferable to 'commercial ports'.

(d) Annex 3. Every endeavour should be made to obtain the additional facilities suggested by Commander-in-Chief.

(e) It is understood that the British Administration of Weihaiwei holds

¹ No. 199.

² No. 203.

funds representing the surplus of revenue over expenditure which has accumulated during the last few years. On rendition these funds will be transferred to the British Exchequer. So far as we are aware the Chinese have no intention of claiming these funds and it would appear that it will not be necessary for you to take the initiative in raising the matter, but if the Chinese Minister for Foreign Affairs does in fact advance such a claim you should leave him in no doubt that it cannot be admitted. You may remind him if the need arises that under Article 9 of the 1924 draft His Majesty's Government agreed to waive all claims in respect of the sum of £136,500 which the Imperial Exchequer had contributed in the form of grants-in-aid between 1901 and 1924 and while we have no objection to the deletion of any mention of that waiver nor to the absence in the formal agreement of any mention of the decision of His Majesty's Government in the United Kingdom that the Chinese Government should not be asked to accept liability for compensation and pensioning of officers in the service of the Weihaiwei administration the waiver remains none the less effective in the new agreement and it would plainly be inequitable if His Majesty's Government, having made good the deficit between revenue and expenditure of the territory for over twenty years and having relieved the Chinese Government of all liability with regard to the pensions of officials of the territory should be called upon to surrender the surplus which has latterly accrued.

I am content to leave it to your judgment as to the manner in which these various points are placed beyond doubt in the new agreement as finally signed.

You should make it clear that His Majesty's Government would not be bound to carry out rendition if the Chinese Government were when the time comes not in control of Shantung. In that event rendition would have to be deferred till their control was re-established.

I should like to announce here that agreement has been reached in principle with the Chinese Government for the rendition of Weihaiwei on the basis of the draft agreement of 1924 and that the drafting of the definitive text of the agreement has been put in hand, if such an announcement would be accurate and if the Chinese Government are agreeable.

Please telegraph your observations.

No. 217

Mr. A. Henderson to Mr. Brennan¹ (Shanghai)

No. 19 Telegraphic [F 842/1/10]

FOREIGN OFFICE, *February 7, 1930, 6.30 p.m.*

Following for Sir M. Lampson:—

The Japanese Ambassador called at the Foreign Office on February 4 and left a memorandum, text of which is contained in my immediately succeed-

¹ Mr. Brennan had been appointed H.M. Consul-General at Shanghai on February 6 in succession to Mr. Garstin, who was appointed H.M. Consul-General at Harbin.

ing telegram.² He requested that His Majesty's Government's views on the proposals contained therein might be communicated to him in due course.

Sir V. Wellesley explained that it now appeared that the American Government were prepared to go very much further in the surrender of extraterritoriality than we were and had so informed the Chinese. He feared that it would make matters much more difficult for both His Majesty's Government and the Japanese Government in their negotiations with the Chinese and it seemed therefore more than ever necessary that both Governments should stand together. His Excellency had not yet heard of this development which he regarded as very serious.

Repeat to Tokyo.

² Not printed. This memorandum was identical with that communicated to the Department of State on February 6 and printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 375-6.

No. 218

Mr. A. Henderson to Mr. Hewlett (Nanking)

No. 17 Telegraphic [F 700/1/10]

FOREIGN OFFICE, *February 8, 1930, 5.0 p.m.*

Following for Sir M. Lampson.

Your telegram No. 58.¹

1. It is difficult to estimate to what extent Wang's attitude was affected by knowledge of American proposals communicated to Chinese Minister in Washington on January 23.² This development has obviously greatly weakened our position both as regards making abolition of extraterritoriality a gradual and evolutionary process and as regards employment of co-judges. The American Government, as in the case of tariff autonomy, have taken shelter under a most favoured nation clause, thus leaving the real burden of negotiation to us. It may be feasible to ignore this development and pursue our negotiations according to the programme already laid down. In practice, however, I fear that our position might become untenable and we might be courting a spectacular defeat after incurring great odium unless remaining Powers, especially Japan, work with us. If those Powers co-operate our position might not be untenable. The alternative is to accept the situation created by the United States Government and in co-operation with other Powers particularly Japan (see my telegram No. 20³) concentrate on securing adequate safeguards in matters of detail, more especially shipping and taxation, which are of great importance both to us and Japan but in regard to which the American proposals are particularly defective. Please telegraph your considered views.

Repeated to Washington No. 88. Repeat to Tokyo.

¹ No. 214.

² See No. 212, note 2.

³ Not printed. See No. 217, note 2.

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 11, 5.30 p.m.)

No. 73 Tour: Telegraphic [F 851/103/10]

NANKING, February 11, 1930, 6.0 p.m.

Wei haiwei.

At interview on February 10 I handed to Minister for Foreign Affairs draft agreements A and B prepared after consultation with Commander-in-Chief and Commissioner in accordance with understanding reached with Minister for Foreign Affairs on 13 January as requested (*sic* ? reported)¹ in my telegram No. 23.²

2. Agreement A contains all provisions dealing with mainland and rendition of property and is composed of relevant articles of 1924 draft amended to meet Chinese wishes as proposed in my telegram No. 13.³ Old article 14 is redrafted so as to provide for issue of perpetual leases on Chinkiang model and is combined with old article 15 unchanged and followed by following provision:—‘if National Government of the Republic decide later on to close the port of Wei haiwei to foreign residence and trade with a view to utilising it exclusively as a naval base the foreign property-owners and leaseholders will be bought out at a fair compensation to be agreed upon between the Governments of China and the United Kingdom who will appoint a joint commission for determining amount of this compensation in each case’. Old article 20 is reworded so as to do away with necessity for a map and both this and old article 22 are made conditional on Chinese Government not closing port and reserving it exclusively as a naval base. Attached to agreement A as well as annexes concerning mainland is an exchange of letters (not formally part of agreement) providing for main dock, employment of existing police force, and assurance regarding electric and water supply companies’ operations.

3. Agreement B has preamble on same lines as that of A (which is the same as old draft) altered to read that both parties ‘desiring that in view of traditional friendship between British and Chinese navies arrangements should be made for use of waters of Wei haiwei as a summer resort for ships of His Majesty’s Navy, have resolved to conclude a convention for that purpose and to that end have appointed as their plenipotentiaries etc.’ Then follow articles 23, 24, 25, 26 and second half of article 27 (first half appearing in agreement A). Annex containing list of most important . . .⁴ includes additional ones desired by Commander-in-Chief. First exchange of notes (undertaking not to refuse to renew without reasonable cause) is re-instated unchanged. Then follow three exchanges of letters (not formally part of agreement) stating that with reference to deletion of words ‘free of charge’ from

¹ The text is here uncertain.

² No. 203.

³ No. 199.

⁴ The text is here uncertain. The word ‘facilities’ should probably have been included here.

old article 23 it is not the intention of Chinese Government to charge any rent in connexion with loan of buildings and facilities on Liukungtao and use of its waters, that privileges accorded under convention to ships of His Majesty's Navy do not imply 'that naval vessels of a third nationality already moored in anchorage in question should be moved to make way for ships of His Majesty's Navy', and that 'the competent Chinese authorities of Weihaiwei will engage a British naval officer as medical officer of health or associate medical officer of health for the island of Liukungtao'.

4. Results of discussion are given in my immediately following telegram.⁵ Repeated to Commander-in-Chief, Weihaiwei and Peking.

⁵ No. 220.

No. 220

*Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 11, 10.0 p.m.)*

No. 74 Tour: Telegraphic [F 802/103/10]

NANKING, February 11, 1930, 9.0 p.m.

My immediately preceding telegram.¹

We read through drafts as a preliminary study and Minister for Foreign Affairs made no comments on agreement A. He likewise made no comments on agreement B (including list of naval facilities) until we reached first exchange of notes when he immediately said that it was impossible for his Government to accept its re-insertion; it represented the main obstacle which had prevented settlement during past seven years and he sincerely hoped that His Majesty's Government would not insist on it and thus again block the agreement which he so earnestly desired to reach. I argued our case at length emphasizing anxiety of His Majesty's Government to retain this exchange of notes and explaining reasons (expense of providing new facilities elsewhere etc.) but finally as it was obvious that he could not accept its re-insertion I put forward alternative suggestion contained in your telegram No. 13² to Nanking. He at once said that this was equally unacceptable as it amounted in fact to the same thing (perpetual renewal even if on new terms). Finally we agreed mutually to consider *ad referendum* the wording 'with option of renewal on the same terms by agreement or on such other terms as may be agreed upon between the two Governments'. This seems at least to give us more elbow room in negotiating for renewal when the time comes. Minister for Foreign Affairs quoted old arguments about impossibility of any Chinese Government agreeing to perpetual renewal and probability of relations between our two Navies being so close in ten years time as to ensure some mutually satisfactory arrangement being come to. I countered by emphasizing opportunities for practical sea training for Chinese Navy

¹ No. 219.

² See No. 216.

afforded by presence of our respective fleets side by side at Weihaiwei during the summer.

2. Only other comment of Minister for Foreign Affairs was to enquire whether Chinese Government would have to pay Naval medical officer for Liukun[g]tao since if so they would be saddled with cost of two doctors, one for the mainland and one for the island; this he considered altogether unreasonable and he suggested that the two posts should be combined. I explained that this was not practicable but I added that I did not think that our naval authorities expected Flotilla Medical Officer for the island to receive remuneration from Chinese Government and I agreed that this should be made clear in exchange of letters.

3. Minister for Foreign Affairs agreed tentatively to consider covering point about military convalescent depot by fixing October 1 as the date of coming into force and actual rendition.

4. He readily accepted as entirely reasonable and took note of my statement regarding necessity for delaying ratification and rendition if when the time comes Central Government are not in control of Shantung. But he urged it would be too humiliating to have to put this in writing. I agreed.

5. When I informed him of your desire to issue some statement about agreement having been reached in principle etc., he evidently thought any such announcement premature (I agree with him) in view of our apparent insistence on first exchange of notes or its equivalent which if pressed would again he foresaw prove the rock on which the settlement would be wrecked; and he once again made earnest appeal to His Majesty's Government not to press the point.

6. Next step will probably be a detailed examination of our drafts by Hsu Mo and Mr. Teichman leaving aside for the moment question of wording of old Article 23. But I interpret your instructions as meaning that while making every effort to secure something more I am authorized in the last resort to negotiate *ad referendum* a settlement on line proposed in my telegram No. 13.³

7. I have put it to the Minister for Foreign Affairs that our object should now be to secure an agreed text (*ad referendum* to our respective Governments) which I for my part would send home by mail via Siberia with the request for authority to sign and provision of full power. This would give us time to arrange details with regard to maps, translation etc.

Repeated to Peking, Commander-in-Chief, Weihaiwei.

³ No. 199.

No. 221

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 12, 12.9 a.m.)

No. 76 Tour: Telegraphic [F 863/103/10]

NANKING, February 12, 1930, 10.55 a.m.

My telegram No. 74.¹

Minister for Foreign Affairs agrees to suggested wording in Article 23 namely 'with the option of renewal on the same terms by agreement or on such other terms as may be agreed upon between the two Governments'; the first exchange of notes attached to 1924 draft being dropped.

Detailed examinations of drafts by Mr. Hsu Mo and Teichman begins tomorrow.²

Repeated to Commander-in-Chief, Peking and Weihaiwei.

¹ No. 220.

² This telegram was drafted on February 11.

No. 222

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 5)

No. 43 Tour [F 1243/103/10]

NANKING, February 13, 1930

Sir,

With reference to my telegram number 81 of February 13¹ I have the honour to enclose herewith a Minute recording what I hope may prove to be the closing stages of the negotiations for the rendition of Weihaiwei together with copies of the draft Agreements² referred to therein. At the interview in question the Minister for Foreign Affairs and I exchanged our initialled copies of the drafts as indicating that they represented agreed texts for submission to our respective Governments and I now have the honour to request that I may be authorized to sign the Agreements and furnished with the necessary full powers. The atmosphere during the concluding phases of the negotiations has been decidedly favourable and I consider it very desirable that we should proceed to signature without any unnecessary delay. This is also the desire of Doctor Wang.

2. The various points which have arisen in the negotiations have been fully covered in my telegraphic reports and the records of interviews, copies³ of which have been sent to you, and in view of the great pressure of work here at present and the urgency of forwarding the draft Agreements as soon as

¹ No. 223 was not despatched until February 14.

² Not printed. These texts corresponded generally to the final texts printed in Cmd. 3741 of 1930. See, however, No. 251.

³ Not printed.

possible, I am not attempting any connected account of how the draft settlement was arrived at. I have no doubt that this settlement represents the best terms we are likely to obtain, both in regard to the mainland, where the property rights of land-owners are, I venture to think, better protected under Article 13 than in the 1924 draft, as well as in regard to the Naval clauses, in which we have secured all we required with the exception of the exchange of Notes, which I do not believe we could ever have got the present Chinese Government to agree to. As regards the conversion of the Naval Agreement into an 'Agreement' instead of a 'convention', I myself see no objection to meeting Chinese susceptibilities in this way, on the understanding that it is for all practical purposes of equal binding validity, which I assume to be the case. Whether there are any technical objections to the wording of the preamble and the ratification clause I am not in a position here to judge.

3. I should be glad to learn by telegram whether I may now proceed to sign the two documents as herein enclosed.

I have &c.,
MILES W. LAMPSON

ENCLOSURE IN No. 222

Minute by Mr. Teichman

WEIHAIWEI

NANKING, *February 13, 1930*

After the last discussion⁴ the position was that Dr. Wang and H. M. Minister would each consider the suggested new wording of the Naval Loan Article, and that, as soon as the Chinese side were ready, Mr. Teichman and Mr. Hsu Mo would go over the drafts and see if it were possible to prepare a version on which their respective chiefs might agree.

On February 11 Mr. Hsu Mo wrote to Mr. Teichman to say that his Minister accepted the revised wording of the Naval Loan Article, and on the following day the two met for an examination of the drafts. Mr. Teichman met Mr. Hsu Mo first at the Wai Chiao Pu in the afternoon, returned to report to Sir M. Lampson, and then met Mr. Hsu Mo again at Dr. Wang's house in the evening. The result of these discussions was agreement on the texts of the two drafts to be submitted for confirmation to Dr. Wang and Sir M. Lampson on the following day. During these discussions between Mr. Teichman and Mr. Hsu Mo the following points arose. The last sentence of Article 16 was transferred to Article 11, except for the deletion of the reference to the noxious trade regulations. In Article 13 the word 'foreigners' was altered to 'persons other than Chinese' (this alteration was made on the following day). In Article 17 Mr. Hsu Mo wished to insert the words 'for consideration' after the word 'ascertain', but eventually abandoned the point. In Article 20 the date of coming into force was agreed to as October

⁴ See Nos. 219 and 220.

1, 1930. There was some discussion as to whether London or Nanking should be the place of ratification, but, on its being pointed out on the Chinese side that, as the agreement came into force on the day of exchange of ratifications, it would be more convenient to ratify in China, Sir M. Lampson on the following day accepted Nanking as the place of ratification, *ad referendum* to His Majesty's Government.

As regards the Naval Loan Agreement, the first point raised by the Chinese was that they wished this to be an 'Agreement' instead of a 'Convention', with only a brief preamble stating that 'The undersigned, having been duly authorised by their respective Governments, have agreed as follows.' This was subsequently accepted by Sir M. Lampson *ad referendum* to His Majesty's Government. As this Naval Agreement now stood by itself, the words 'in the Bay of Weihaiwei' were inserted after the word 'Liukungtao' in Article 1. In Article 2 the Chinese pressed for the deletion of the word 'efficiently', but eventually gave way. In clause 3 of Article 3 the Chinese pressed for the deletion of the words 'which will be given on application to be renewed yearly'; a long discussion ensued, in which it was explained by Mr. Teichman that this point had been thrashed out *ad nauseam* before, and in the end the Chinese gave way. In the Annex the Chinese accepted without demur the additional facilities desired by the Commander-in-Chief. In the penultimate sentence of this Annex, again, as the Naval Loan Agreement stood by itself, the opening sentence was altered to read: 'As regards the quarries to be handed over under the provisions of the Convention for the Rendition of Weihaiwei'.

On the following day, February 13, Sir M. Lampson met Dr. Wang to discuss these drafts, which were read through and accepted after Sir M. Lampson had explained that he had to make a reservation on certain points, the acceptance of which he would however recommend to His Majesty's Government, namely, the new wording of Article 1 of the Naval Loan Agreement: 'with the option of renewal on the same terms by agreement or on such other terms as may be agreed upon between the two Governments'; the place of ratification; and the turning of the naval agreement into an 'agreement' instead of a 'convention', and the substitution of a new preamble. Sir M. Lampson also explained, with reference to exchanges of letters attached to both agreements, which were marked 'not to be published', that he did not know whether His Majesty's Government would consider themselves obliged to communicate copies of these documents to the Secretariat of the League of Nations; what was intended was that they would not be given out to the press. Dr. Wang concurred in the above. Sir M. Lampson and Dr. Wang then initialled their respective copies and exchanged them as evidence of their mutual acceptance of the drafts as agreed texts, *ad referendum* to their Governments.

At the conclusion of the conversation there was a brief discussion about the question of maps. It was agreed that Mr. Hsu Mo and Mr. Teichman should examine them on Monday⁵ with a view to making the necessary altera-

⁵ February 17.

tions in the legends and adding the additional facilities where necessary and having further copies made; and it was agreed that eventually the maps would be initialled.

E. T.

No. 223

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 14, 11.0 a.m.)

No. 81 Tour: Telegraphic [F 912/103/10]

NANKING, February 14, 1930, 2.50 p.m.

Weihaiwei.

As a result of joint examination of texts by Teichman and Hsu Mo, followed by confirmatory discussion between Minister for Foreign Affairs and myself, we today¹ exchanged copies of draft agreements as agreed texts for submission to our Governments. I am forwarding copies via Siberia with request for your authority to sign and provision necessary for full powers.

Drafts are as outlined in my telegram [No.] 73² with the following modification in agreement B.

This to be an 'agreement' instead of a 'convention' with brief preamble running as follows. 'The undersigned having been duly authorised by their respective Governments have agreed as follows'. Ratification clause remains unchanged.

I agreed to recommend this to you. Chinese want main convention to be for rendition of Weihaiwei and to have subsidiary agreement covering naval provisions.

This seems to me reasonable and I trust that His Majesty's Government will be able to accept it.

Text of Article 1 of naval agreement is contained in my immediately following telegram³ and exchange of notes is deleted. Rest of naval agreement includes all naval clauses unchanged except for a few minor verbal alterations and annex includes additional facilities desired by Commander-in-Chief. Attached exchange of letters are as indicated in my telegram [No.] 73 and are marked 'not for publication'. I explained to Minister for Foreign Affairs that my understanding of this was that they would not be handed to the press but that I did not know whether His Majesty's Government might not feel bound to communicate copies to League of Nations. He concurred. Dates for coming into force of both agreements are October 1, 1930.

I trust that His Majesty's Government will approve and authorise signature.

Terms are I consider the best we can hope to obtain and atmosphere for negotiations has been most favourable.

Repeated to Commander-in-Chief, Weihaiwei and Peking.

¹ This telegram was drafted on February 13.

² No. 219.

³ Not printed. This article was, subject to minor verbal variation, the same as that in the final text in Cmd. 3741 of 1930.

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 14, 11.30 a.m.)

No. 83 Tour: Telegraphic [F 915/1/10]

NANKING, February 14, 1930, 4.40 p.m.

My telegram No. 60.¹

I read to Minister for Foreign Affairs today first sentence of Foochow telegram unnumbered of February 11² as an illustration of necessity of sending further explicit instructions to provincial authorities who as shown by incidents at Hankow and Tientsin evidently did not understand the position. Minister for Foreign Affairs said he was still considering question of issuing further instructions of which however he doubted the wisdom for fear of creating a wrong impression. He also referred to difficult task of police owing to possession of extraterritorial rights by some foreigners but not by all. He promised however to send a special message to Foochow where he thought instructions on the subject of extraterritoriality and those on the subject of abolition of Commissioners for Foreign Affairs had possibly been confused.

Repeated to Peking, Foochow, Commander-in-Chief, General Officer Commanding, Tokyo and Hong Kong.

¹ Not printed. This telegram reported further on Sir M. Lampson's interview of February 3 with Dr. Wang (see No. 214). As an illustration of the dangers of the situation since the issue of the mandate of December 28, 1929, Sir M. Lampson referred to the case of Lieutenant-Commander McBride, R.N., who had been detained by the Chinese authorities at Hankow on January 23 after killing a Chinese boy in a motor accident. These authorities refused to release him until H.M. Consul-General intervened personally and undertook that Lieutenant-Commander McBride would not leave Hankow till the case was settled. Sir M. Lampson pointed out to Dr. Wang that this incident seemed to show that the local authorities had not received orders from the Chinese Government that the rights of British subjects would remain unimpaired until modified by negotiation. Dr. Wang 'interrupted to say that no local authorities would dare to do anything without instructions of the Central Government. He had telegraphed to all local authorities that during negotiations Treaty Power nationals were not under Chinese jurisdiction and had explained to them meaning of December 28 mandate, namely that pending result of negotiations such foreign nationals were under Chinese laws but not under Chinese jurisdiction.' Sir M. Lampson urged that these instructions be made more explicit, and Dr. Wang, while he thought further instructions unnecessary, promised to consider the advisability of sending them.

² Not printed. The first sentence of this telegram (No. 4 to Peking) read: 'At an interview with Consular body this afternoon on the subject of channels of communication to replace Bureau of Foreign Affairs, Chen Pei-Kun Acting Head of Provincial Government in the absence of Admiral Yang stated definitely that only instructions received from Central Government regarding Presidential mandate were that Chinese and foreigners were to be treated alike.'

No. 225

Minute by Mr. Orde

[F 916/1/10]

FOREIGN OFFICE, *February 15, 1930*

Extraterritoriality

Mr. Atherton rang up this morning to say he had had a telegram from Washington explaining that the scheme handed to the Chinese Minister had been definitely described to him as in no sense an offer or commitment but merely material for exploration of the subject.

I had told Mr. Atherton last week in the course of conversation that we were rather nervous as to our position being weakened as a result of the State Department's action (of which he was not then aware). I did not in any way protest, but he telegraphed to Washington and has now got the reply mentioned above.

In the circumstances I am doubtful whether you¹ will think the letter to Mr. Atherton² should be sent, at any rate as it stands. The attached draft postscript might be added, or, as I am inclined to think preferable, the letter might be redrafted in a less formidable shape if anything at all is written.

C. W. ORDE

Sir V. Wellesley approves the postscript as altered.

C. W. O.

¹ Sir V. Wellesley, to whom the present minute was addressed.

² See No. 226.

No. 226

Letter from Sir V. Wellesley to Mr. Atherton

[F 916/1/10]

FOREIGN OFFICE, *February 15, 1930*

My dear Atherton,

On November 19th last His Majesty's Government communicated to the United States Government through the Embassy at Washington an *aide-mémoire*¹ setting forth their views as to the principles on which the gradual abolition of extraterritoriality should be effected, and invited the co-operation of the United States in a common policy based on these principles. In reply the Assistant Secretary of State on December 4th expressed the desire of the United States Government to co-operate with and work with the other Governments in this matter and communicated to His Majesty's Chargé d'Affaires an *aide-mémoire* expressing general agreement with the policy proposed by His Majesty's Government.² In particular the United States

¹ See No. 132, note 2.

² See No. 165, note 3.

Government agreed that the abolition of extraterritoriality must be a gradual and evolutionary process and that progress must be *pari passu* with the improvements achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence (Paragraph 1); that transfer of jurisdiction should be by categories of cases in the general order (1) civil cases (2) criminal cases and (3) personal status matters (Paragraph 2); that the most that could be envisaged as practicable in the near future was transfer of jurisdiction in civil cases (Paragraph 4); that it would be necessary to examine carefully the Chinese codes before any decision can be reached in regard to the transfer of any class of cases subject to such codes (Paragraph 6). A 'proposal' attached to the *aide-mémoire* appeared to contemplate the examination of the Chinese codes by a Sino-American Commission and a transitional period during which American Courts would apply Chinese laws and regulations approved by the Commission. Subsequent statements, copies of which were communicated to His Majesty's Embassy at Washington early in January last, indicated that the United States Government still adhered to their previous attitude.³

It was therefore with considerable surprise that His Majesty's Government learned that the United States Government had on January 23rd last communicated to the Chinese Minister at Washington a draft of possible provisions of an agreement which contemplated the total and immediate surrender, subject to certain safeguards, of both civil and criminal jurisdiction without any previous examination of the Chinese codes.⁴ His Majesty's Government had received no previous intimation that the United States Government no longer adhered to the principles in which they had previously expressed their concurrence and negotiations had already been initiated by His Majesty's Minister with the Chinese Government at Nanking in ignorance of the fact that these principles no longer afforded a common basis of action by all the Powers interested.

We cannot but feel that this unexpected development may make it difficult to realise the expressed desire of your Government 'to co-operate with and work with the other governments in this matter', and I would welcome any explanation of the reasons for the apparent change in the policy of the United States Government which you may feel disposed to furnish.

Yours sincerely,
VICTOR WELLESLEY

P.S. I have just heard of the information which you were kind enough to telephone to the Department this morning.⁵ I am afraid it hardly removes our misgivings, because we cannot help feeling that it will be difficult, if not impossible, to withdraw what the Chinese can hardly fail to treat as an offer or at the least an indication of a readiness in principle to abandon the policy of a gradual abandonment of treaty rights subject to proper safeguards.

³ See No. 198, note 2.

⁴ See No. 212, note 2.

⁵ See No. 225.

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 17, 9.0 a.m.)

No. 85 Tour: Telegraphic [F 944/1/10]

NANKING, February 16, 1930, 5.50 p.m.

Your telegram No. 17 to Nanking¹ and my telegram No. 58.²

American scheme has its points and safeguards appear well thought out but absence of any reservation in regard to criminal jurisdiction and offer to accept foreign counsellors instead of co-judges must, I fear, most seriously weaken my hand in seeking to reach an agreement on the lines of our scheme though when I threw a fly over Minister for Foreign Affairs to see if his hypothetical question still held good I gathered that it did *despite* this American move. As for Japanese I do not think that we could count too much on their standing by us in holding out on our proposals if they can strike a bargain in connexion with questions such as tariff or residence in the interior [? in] which they are specially interested. If Chinese encouraged by American offer refuse our programme and we continue to stand out on them incidents are bound to occur which will sooner or later force an issue and His Majesty's Government will be faced by the prospect of choice between action or a humiliating surrender.

2. In these circumstances (while I do not profess to have entirely cleared my own mind on the subject yet) it is worth serious consideration whether on the assumption that it is now too late to secure a united front on our scheme we should not be wise to close with Minister for Foreign Affairs' tentative offer of foreign co-judges in return for surrender of criminal jurisdiction provided that we can also secure rights of evocation and other safeguards, a minimum duration of so many years and most-favoured-nation treatment in all matters of jurisdiction.

3. I have however been much exercised over question of effect of surrender of criminal and even civil jurisdiction on status of Concessions and Settlements with special reference to Shanghai. During my recent visit there I discussed this point with His Majesty's Consul-General and our legal authorities and requested them to furnish me with their considered views.

Mr. Brennan's reply is contained in his telegram No. 14 to me.³ One aspect of the question which we discussed without very definite result was whether special municipal rights enjoyed by foreigners in relation to the Settlement at Shanghai are derived solely from Land Regulations or whether they have their fundamental origin in extraterritoriality. Whatever the theoretical reply to this question may be, the practical answer is, I feel sure, that these rights are in fact incompatible with a non-extraterritorial status unless special arrangements are made. That the Chinese take this view is shown by their refusal to negotiate about Shanghai itself with Japan and other similarly situated Powers. The conclusion I reach therefore is that the position in

¹ No. 218.

² No. 214.

³ See No. 228.

regard to Settlements and Concessions must be fully safeguarded in any new agreement abolishing or seriously impairing existing extraterritorial rights.

4. I have also received private communications from Chairman of the Council and Judge Feetham (copies [of] which are being sent via Siberia)⁴ pointing out that abolition or serious curtailment of extraterritoriality is incompatible with municipal status of the Settlement or with its future status as an independent Chinese foreign municipality as apparently envisaged by Fessenden and urging that Shanghai be excluded for a term of years from operation of any new agreement regarding extraterritoriality.

5. Further question then arises as to *how* position is to be safeguarded and here we have it seems to choose between two methods namely (1) the simple exclusion of Settlement and Concession areas from the scope of agreement (which I gather is what Fessenden and Arnhold would like as regards Shanghai) or (2) devising of some formula excluding municipal authorities and their officers and agents from Chinese jurisdiction in regard to all acts committed in the execution of their duties. (1) is at first sight much simpler and more satisfactory but you may consider that it takes us back to geographical method of approach which you have not so far approved, while as far as Shanghai is concerned it is likely to force an issue over question of boundaries of Settlement and such things as status of extra-Settlement areas. (2) on the other hand will raise difficult and complicated questions regarding the nature of the jurisdiction to which Municipal Council and their officers are to be subjected unless some special international court can be set up for the purpose. It will be noted that Japanese plan appears to contemplate a reservation on lines of (1) and American plan safeguards more on the lines of (2).

6. We are in the last resort only seriously concerned with Shanghai and Tientsin and we might find it desirable at some stage or other to offer Chinese as a *quid pro quo* the rendition of Shameen, Amoy and Kulangsu (the latter of course in consultation with Powers concerned).

7. I shall await your instructions before taking any further action in the matter: but the stage may soon arise where it may be well to present Chinese with a tentative draft agreement. This I presume would be prepared at home? Its preparation must largely depend on whether Minister for Foreign Affairs' 'hypothetical question' is acceptable or not.

Repeated to Peking, Shanghai, Tokyo and Hong Kong.

⁴ Not printed.

Mr. Brennan (Shanghai) to Mr. A. Henderson
(Received February 17, 11.0 a.m.)

Unnumbered Telegraphic [F 945/1/10]

SHANGHAI, February 17, 1930, 4.20 p.m.

Following is repetition of my telegram No. 14 of February 11 to Sir M. Lampson. Begins.

I have consulted Judge and Crown Advocate regarding your request for my views of the effect on Settlement of proposed surrender of extraterritorial rights. I have also consulted Judge Feetham in strict confidence as the proposals vitally affect the important work on which he is engaged.

Feetham contemplates scheme for grant by National Government to Settlement on petition of Council of a charter conferring very full powers of local self government including special provision re police, administration of justice, extended application of general laws and taxation, subject possibly as regards the latter to contribution from Shanghai to National revenues. His private conversations with prominent Chinese business men though so far only general encourage him to hope for success on these lines. He is afraid that extraterritoriality proposals would prejudice Council's position in this matter irretrievably and he urges that Shanghai should be omitted from the scope of the agreement and question deferred for say a period of three years to enable Council to complete special arrangement for the future of the Settlement. I concur but if this is impossible I submit the following considerations.

In the event of surrender of civil jurisdiction the Council as wealthy corporation brought through its agents into daily conflict with Chinese interests of all sorts would be liable to a series of suits for damages. In view of hostility of Chinese authorities and their control of courts, municipal administration could thus be made impossible. Council would also become legally liable to Chinese taxation.

As regards criminal jurisdiction Council and its agents such as police and volunteers would in times of unrest be liable to prosecution for assaults on Chinese and unless safeguards were adequate courts would be intimidated by political parties and risks would be such that no-one would be willing to serve.

If therefore there is abandonment of civil or criminal jurisdiction it is essential that jurisdiction over Council and its agents acting in execution of duty should either be left as it is or be entrusted to special court so composed as to be immune from Chinese political influence.

Moreover whole extraterritorialized position of Settlement is largely based on extraterritorial rights of the individuals who govern it. For instance Article 9 of Land Regulations provides that meeting for election of Council shall be called by treaty Consuls.

If these rights are to go Chinese Government should confirm constitution

of Settlement contained in Land Regulations in explicit manner. The mere mention of these regulations in Provisional Court Agreement is hardly sufficient in such a vital matter.

Judge and Crown Advocate state that proposals open up such a vista of complications that they cannot give considered opinion at such short notice but I send these tentative suggestions as you ask for an immediate answer.

No. 229

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 18, 9.0 a.m.)

No. 89 Tour: Telegraphic [F 952/1/10]

NANKING, February 18, 1930, 1.10 p.m.

Following received from Foochow unnumbered of February 14.

Begins:—

Sent to Peking No. 5 repeated to His Majesty's Minister.

My immediately preceding telegram.¹

I am sending today in my despatch No. 5² confidential translation of instructions from Ministry of Foreign Affairs to provincial government in which latter are instructed that all foreigners are subject to Chinese law on same footing as Chinese subjects after closing of Bureaux for Foreign Affairs.

Ends.

¹ Not printed. See No. 224, note 2.

² It has not been possible to trace this despatch in the Foreign Office archives.

No. 230

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 18, 4.15 p.m.)

No. 88 Tour: Telegraphic [F 978/1/10]

NANKING, February 18, 1930, 6.10 p.m.

Extraterritoriality.

In discussion with Minister for Foreign Affairs I told him that I had referred his 'hypothetical question' to you but had not been particularly informed of your reaction to it. Meanwhile to save time I had put before you my own views but I gave him no indication of what they were.

He made somewhat ominous comment that his question had been purely personal one and that since he put it to me he had been discussing it with his judicial colleagues who one and all would have nothing to do with it.

I put it to him that there must be some give and take in all these matters.

I much fear American proposals have now done their work and that his semi-official offer may be withdrawn. Should you consider offer worth

fighting for (as I do myself) you may think it opportune to inform Washington of our position in the hope that they may be able to hold out for it otherwise I foresee great difficulty on a point on which we know—from secret information, your telegram No. 381 secret¹—Chinese would originally almost certainly have met us e.g. they never expected to get criminal jurisdiction.

Repeated to Peking, Tokyo and Hong Kong.

¹ No. 117.

No. 231

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received February 19, 5.0 p.m.)

No. 98 Tour: Telegraphic [F 1000/1/10]

NANKING, February 19, 1930, 6.50 p.m.

Extraterritoriality.

In taking leave of Minister for Foreign Affairs today¹ I had short private and personal talk with him.

I put it to him that we had shown ourselves most accommodating to Chinese desires in general as instanced most recently by Weihaiwei and indemnity negotiations which seemed now on fair way to final settlement.

Next question on list—extraterritoriality—was of a more contentious nature and I hoped he on his side would realize our difficulties and show similar spirit of accommodation. For example his 'hypothetical question' had seemed to me (though I emphasized that I spoke without any authority) to contain germs of a possible solution *provided* certain specified areas such as Shanghai were excluded. Even with appointment of foreign co-judges (on which I felt we should certainly have to insist on [*sic*]) such exclusion seemed to me after a study of subject locally to be essential.

His Excellency speaking equally personally said that his judicial colleagues were one and all *adamant* against foreign co-judges even in return for criminal jurisdiction.

But something might be possible both as regards handling matter by specified classes of cases and excluded areas if a time limit were laid down. He again mentioned—by way of argument only—July 1 for civil jurisdiction and January 1, 1931 for criminal cases. It seemed evident he was not at present prepared to budge on this. I ended conversation by saying I felt convinced we on our side should hold out firmly for co-judges: and added I still had no indication whether his 'hypothetical question' would in any event commend itself to you as worthy of serious consideration.

Repeated to Peking, Hong Kong, Tokyo and Shanghai.

¹ Sir M. Lampson left Nanking for Peking on February 20.

Mr. Campbell (Washington) to Mr. A. Henderson
(Received February 24, 3.0 p.m.)
No. 82 Telegraphic [F 1086/1/10]

WASHINGTON, February 23, 1930, 6.44 p.m.

1. I called on Dr. Hornbeck at his request on February 21 and a long conversation ensued.

2. He quoted extracts from letter from Sir V. Wellesley to United States Ambassador¹ on situation created for His Majesty's Government by contents of 'outline of possible provisions of agreement' handed to American [*sic*] Minister here on January 23.² He said that if these had been embarrassing to Sir M. Lampson in his negotiations he was very sorry as the last thing he wished to do was to cause embarrassment to His Majesty's Government. United States Government in no way receded from their position that abolition of extraterritoriality must proceed gradually. He repeated (see 1st paragraph of my telegram [No.] 33³) that this was not a definite offer and that United States Government did not consider itself committed thereby. It was intended to supply Chinese Government with material for study and to elicit some counter-proposals which had hitherto been lacking thus giving United States Government something to work on. United States Government would not be displeased if some of the counter-proposals were quite unacceptable as this would give opportunity for reasoned rejection in course of discussion. Object of communicating outline to His Majesty's Government had been to put them and His Majesty's Minister *au courant* of the stage reached in discussions with Chinese Minister here so that they should not carry on negotiations with Dr. Wang in ignorance of American position. He pointed to information given to His Majesty's Government through this Embassy on various occasions during the last three months and pointed out that he was still ignorant of what had been passing between Sir M. Lampson and Chinese Minister for Foreign Affairs. For instance he did not suppose that plan in your telegram No. 380⁴ could have been handed to Dr. Wang as it stood since it appeared to him to be more a document for discussion amongst interested Powers, being in the nature of suggestion for procedure to be adopted *vis-à-vis* Chinese Government. He stated further that there were several points in memorandum enclosed in Mr. Johnson's letter to me of December 4⁵ regarding which His Majesty's Government's views and suggestions had been requested but these had not so far been communicated to the United States Government except as to matter dealt with in your despatch No. 115⁶ and then not till February 13 (despatch reached here on February 10). I said there were also some matters which the United States Government had stated in the memorandum they were still considering and regard-

¹ See No. 226 for Sir V. Wellesley's letter to Mr. Atherton.

² See No. 212, note 2.

⁴ No. 116.

⁵ See No. 165, note 3.

³ No. 212.

⁶ No. 211.

ing which you had perhaps been awaiting the result of this consideration, but had heard nothing more till communication of outline of Japan⁷ which he agreed constituted a considerable step forward on suggested lines of action theretofore communicated to you.

3. As to Dr. Hornbeck's argument that the United States Government were not committed by outline I asked if he thought it possible for United States Government having once suggested to Chinese Government employment only of counsellors now to demand employment of foreign co-judges. His Majesty's Government had attached great importance to presence of co-judges. He said he thought that if other interested Powers were insistent in their wish for co-judges United States Government could still tell Chinese they also desired them not wishing to be in any less favourable position than other countries. I mentioned two other points in American outline as seeming to me possibly to have caused His Majesty's Government to feel it had made difficulties for them: (a) limitation of right of evocation to a period of five years and (b) apparent readiness of United States Government to apply Chinese code before it is examined and found satisfactory subject to modification if necessary after being made applicable to United States citizens.

4. As to (a) he said he was not particularly keen on this time limit but had in mind that Siamese treaty limited right to five years and that five years was a period of 'political tutelage' in China so that Chinese public probably feel they would also be trained up by that time to exercise of jurisdiction over foreigners.

5. As to (b) he felt that foreign counsellors and the experience of the courts themselves would lead to modification of unsatisfactory feature of codes in order to avoid friction and diplomatic incidents. He did not see how it would be possible to go over codes article by article with any hope of Chinese acceptance. It would, if anything, be a matter of acceptance or rejection of them *in toto*.

6. In general he said his position in dealing with this matter was not one of insisting on what the interested Powers *ought to* get but of trying to get by agreement maximum to which the Chinese Government were likely to assent. He did not think that success would attend an effort to draw up a definite line and tell Chinese that any demands beyond this would not even be considered. He thought it best by elasticity in different directions to try to produce a treaty which, though no doubt not satisfactory in some particulars, would be taken as a whole not leaving us in too bad a position and which would serve to head off over-excessive demands or precipitate action.

7. Chinese Minister was continually visiting him and he felt it necessary to play him alone and try to prevent rushing tactics or precipitate action. He had told Dr. Wu that he did not think it possible to give him any definite proposals before return of the Secretary of State from London.⁸

⁷ See No. 217, note 2.

⁸ Mr. Stimson was attending the London Naval Conference. See Volume I of this Series, Chapter III.

Mr. Campbell (Washington) to Mr. A. Henderson
(Received February 24, 9.0 a.m.)
No. 82 Telegraphic [F 1086/1/10]

WASHINGTON, February 23, 1930, 10.34 p.m.

Part II

8. Dr. Hornbeck told me in confidence that there was a possibility of Chinese Minister going to Europe next month for conference on codification of international law but that he had not made up his mind yet whether to go. Dr. Hornbeck hoped he would as this would give United States Government more time. But he felt that it would probably be necessary for the Powers to make some treaty before the end of the year, otherwise by repeated infringements of treaties by the Chinese we should find extraterritoriality completely . . .¹ and in fact abolished in a year or two.

9. During conversation I thought it well to tell Dr. Hornbeck when he was regretting lack of information from His Majesty's Government as to progress of negotiations between Dr. Wang and Sir M. Lampson that latter had indeed communicated gist of your telegram No. 380² to Dr. Wang but that in ensuing conversations apparent knowledge of the United States outline had seemingly led Chinese Minister for Foreign Affairs at once to take up position tending to undermine ours so that the situation was now changed and needed consideration.

10. His Majesty's Embassy has not so far acted on authority given in your telegram No. 99³ because we had received in the meantime Sir M. Lampson's telegram No. 58 to you⁴ and your telegram to him No. 17⁵ from which it appeared that policy of His Majesty's Government was now in some measure in the melting pot and the considered views of His Majesty's Minister were being awaited before decision as to line to be followed was reached. It seemed to us that in these circumstances it would not be very useful to communicate gist of conversations over a month old when received here by which an incomplete picture would now be given. Moreover it was felt that until Sir M. Lampson's considered views on question raised on [*sic* ? in] Foreign Office telegram to him No. 17 were received it would be difficult for us to know exactly what and how much should be said to United States Government. If it is decided to ignore situation created by American proposals and to try to carry on along lines of our original programme obtaining what support we may from other interested Powers it would presumably be necessary to make it very clear to United States Government in what material

¹ The text is here uncertain.

² No. 116.

³ Not printed. This telegram of February 14 had authorized Sir E. Howard to communicate to Dr. Hornbeck the substance of Foreign Office telegram No. 3 to Nanking (see No. 215, note 2), Nanking telegrams Nos. 7, 11 and 12 (Nos. 195, 196, and 197) and the memorandum communicated to Dr. Wang by Sir M. Lampson on February 3 (see Nos. 207 and 210).

⁴ No. 214.

⁵ No. 218.

respects our policy differs from theirs. The considered views of Sir M. Lampson would doubtless make it easier for us to do this. If on the other hand it is decided to accept situation created by American outline and concentrate on securing adequate safeguards in regard to such matters as taxation and shipping it would presumably be desirable to lay greater stress on our *desiderata* in respect to such matters in the hope that United States Government would support us than on differences in respect to those matters with which American proposals have chiefly dealt.

11. As however we have not yet received Sir M. Lampson's views you may consider it desirable now to communicate to United States Government substance of your telegram No. 3 to Sir M. Lampson⁶ and of latter's telegrams Nos. 7, 11, and 12⁶ and text of his memorandum to Chinese Minister for Foreign Affairs⁶ and perhaps also substance of Sir M. Lampson's telegram No. 58 which would tend to show to what extent United States 'outline' seemed to have embarrassed us.

12. As to maintenance of united front Dr. Hornbeck said that United States Government felt they did not wish to be committed to some hard and fast line adopted by all the Powers beyond which they would say they could not recede and which might give Chinese Government opportunity to break off negotiations with all at once. I said I thought His Majesty's Government had wished negotiations to be carried on by all Powers at Nanking in order to avoid a dangerous situation such as the present one in which Chinese could gain a concession from one of the Powers, use it to gain a similar one from the other Powers and so on, playing one off against the others.

13. At the conclusion of the interview I said I presumed it was the intention of United States Government to insist on maintaining American Courts in China. He said it was and that he would like at some other time to speak to me on the subject.

⁶ See note 3 above.

No. 234

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 49 Telegraphic [F 944/1/10]

FOREIGN OFFICE, February 26, 1930, 6.0 p.m.

Your telegrams Nos. 85¹ and 88².

1. The Settlement at Shanghai was originally intended for the residence of extraterritorial foreigners only and the Regulations of 1869 consequently ignore the presence of Chinese in the Settlement and confer municipal rights only on such foreigners. Chinese and non-extraterritorial foreigners who came into the Settlement were bound to conform to the Regulations and pay municipal taxes but received in return not municipal rights but only the

¹ No. 227.

² No. 230.

benefits of a civilised administration. It is evident that if extraterritoriality were abolished the constitution of the Settlement would collapse for lack of a legal foundation unless simultaneously certain adjustments were made providing for some authority to exercise the powers now exercised by the Treaty Consuls under Articles 9 and 15 and for some international court to be set up in place of the Court of Consuls to hear suits brought against the Council and civil and criminal actions brought against the Council's *employés* and agents. It would also be necessary to define what municipal regulations could be enforced against residents in the Settlement and what classes of foreigners were entitled to vote and sit on the Council. If there were only a partial transfer of either civil or criminal jurisdiction similar adjustments on these lines would be necessary.

2. The arguments adduced by Judge Feetham for exclusion of Settlement are not necessarily valid, first because adjustments described above might well form intermediate stage towards constitution which he hopes to evolve and secondly because his plans might be seriously prejudiced if the Chinese are told that their incubation necessitates maintenance of extraterritoriality in the Settlement for three years longer. The Chinese probably attach at least as much importance to question of extraterritoriality at Shanghai as we do and therefore in addition to the disadvantages pointed out by you, exclusion might give rise to an agitation directed towards total sweeping away of foreign municipal administration. On the other hand postponement of transfer of jurisdiction for a limited period would be much simpler and easier to work than special arrangements as indicated in paragraph 1 above. It is plain from preliminary observations of Judge and Crown Advocate that latter course would involve considerable complications and would take time to work out and as Judge Feetham urges former course it might be best to attempt it. If there is a definite time limit to postponement of transfer proposal would not be open to objection to geographical method of transfer generally, that Chinese would get little out of it, especially if offer suggested in paragraph 6 of your telegram No. 85 were made as a consideration for the postponement. On the other hand definite engagement to surrender jurisdiction in Settlement on a given date ties our hands and prevents us from making further concessions depend on satisfactory working of new system generally. Moreover it may not be found possible to secure agreement of Chinese to necessary adjustments in constitution of Settlement within time limit laid down. Shanghai is probably the one place where we could defend our extra-territorial rights against unilateral abolition and this is a weapon not to be lightly abandoned. Nevertheless as our chief aim should be to endeavour to arrive at an agreed solution by peaceable negotiation it would seem better that the possibility of using this weapon should not be made the basis of our policy.

3. Though prospects of success have been gravely prejudiced by American proposals it seems worth making an effort to secure co-judges and right of evocation in return for surrender of criminal jurisdiction. Minister for Foreign Affairs, though indicating great difficulty, has not officially rejected

the possibility. Chinese objections might perhaps be met by adopting Siamese system under which the foreign lawyers employed by the Siamese Government were termed and acted as legal advisers but also possessed important judicial functions in cases concerning foreigners. For particulars of this system see *State Papers*, Vol. 102, pages 126 and 799.³ I should be glad to have your views. Our tactics might in the first instance be to offer to surrender minor criminal jurisdiction stipulating that satisfactory agreement as to Settlement and Concessions must be simultaneously reached. This offer might subsequently be extended if necessary to include all criminal jurisdiction, but such a step, and in general, decision as to what line to pursue in negotiations must wait till we have fuller information as to attitude of United States and Japanese Government[s]. Former protest that the scheme communicated to Chinese Minister in Washington was in no sense an offer or commitment and I am awaiting a reply to a request for an explanation of their attitude. Japanese Government have not so far expressed their view on situation created by United States action, and we should not take any further serious step without ascertaining their views. You should consult your United States and Japanese colleagues and report result.

³ The reference is to the provisions regarding jurisdiction over British subjects in Siam in the treaty between Great Britain and Siam of March 10, and the *procès-verbal* of July 6, 1909, printed in *British and Foreign State Papers*, vol. 102, pp. 126 f. and 799-800.

No. 235

Mr. A. Henderson to Mr. Campbell (Washington)

No. 122 Telegraphic [F 1086/1/10]

FOREIGN OFFICE, *February 27, 1930, 8.0 p.m.*

Your telegram No. 82.¹

As Dr. Hornbeck continues to regret lack of information from His Majesty's Government you should take an opportunity of explaining that the only matters in regard to which Mr. Johnson's communication of December 4² requested His Majesty's views and suggestions, apart from matter dealt with in my despatch No. 115,³ were as you rightly surmised in the remarks reported in your telegram No. 33⁴ matters of detail (shipping, taxation, domiciliary visits, etc.) which were being left to Sir M. Lampson to work out with Dr. Wang within the framework of the plan outlined in my telegram No. 380 to Peking.⁵ No negotiations whatever took place till the conversations in January reported in Sir M. Lampson's telegrams Nos. 7, 11 and 12⁶ when Dr. Wang presented a written skeleton of the Chinese plan to which Sir M. Lampson responded by presenting on February 3 the memorandum based on my telegram to Peking No. 380 (see my telegram No. 65)⁷. A copy

¹ Nos. 232 and 233.

² Not printed. See No. 165, note 3.

³ No. 211.

⁴ No. 212.

⁵ No. 116.

⁶ Nos. 195, 196 and 197.

⁷ See No. 215, note 4.

was given at the same time to United States Minister. By this time however presentation of American 'outline' on January 23, without any previous warning which might have enabled us to make any necessary adjustments in our policy, had made it impossible to negotiate with any prospect of success for safeguards abandoned in the 'outline', and indeed attempt to secure such safeguards might merely give rise to friction and to agitation directed against the Power concerned. The new situation thus created is now under discussion with Sir M. Lampson and as soon as a definite decision as to our future course has been reached it will be communicated to American Government. In the meantime I am repeating for your information and guidance Sir M. Lampson's telegrams Nos. 85⁸ and 88⁹, Shanghai telegram No. 14¹⁰ and my telegram to Sir M. Lampson No. 49.¹¹ These will enable you to explain developments to Dr. Hornbeck with whom you should also take action suggested in paragraph 11 of your telegram under reference.

Is there any likelihood of United States Government transferring negotiations to Nanking? It would greatly simplify co-operation which State Department profess to desire.

Repeated to Peking No. 50 for Tokyo.

⁸ No. 227.

⁹ No. 230.

¹⁰ See No. 228.

¹¹ No. 234.

No. 236

Mr. Campbell (Washington) to Mr. A. Henderson

(Received March 9, 9.0 a.m.)

No. 98 Telegraphic [F 1234/1/10]

WASHINGTON, March 3, 1930, 6.33 p.m.

1. I saw Dr. Hornbeck on March 1 at his request.
2. He told me State Department had received telegram from United States Ambassador in London recording conversation with member of Far Eastern Department and asking amongst other things the views of State Department on whether it would be preferable to abandon criminal jurisdiction or co-judges. He had not had time to consider alternative closely but on first thoughts felt it would be best to drop co-judges as he doubted their efficacy as safeguards. He understood I was to receive the views of His Majesty's Government and would be glad to discuss matter. He wondered why His Majesty's Government thought necessity existed for choice between the two.¹

3. As your telegram No. 122² had only reached me just as I was starting for State Department and later correspondence between you and Sir M. Lampson referred to therein had not yet come through I told Dr. Hornbeck I expected

¹ The file copy of this telegram has a pencilled note that Dr. Hornbeck himself had 'virtually given up both'.

² No. 235.

to be in possession of your views after the week-end and discussion was deferred till then.

4. I took an opportunity however of telling him that His Majesty's Embassy had been authorised by you a fortnight ago to inform him of what had passed at Sir M. Lampson's interviews with Dr. Wang in January but that in the circumstances I had mentioned to him at our last interview (see my telegram No. 82 paragraph 9³) we had thought it best to await the result of your reconsideration before supplying information which would give him incomplete and possibly misleading picture of His Majesty's Government's position. While on this subject Dr. Hornbeck said he did not think Chinese Minister for Foreign Affairs could have known on February 3 of suggestion of United States outline of January 23. The Chinese being so short of funds he felt sure Chinese Minister would not have telegraphed it. It seemed more probable that Dr. Wang had based himself on Shotwell plan⁴ or that drawn up partly by Sir F. Whyte at Honolulu conference two years ago.⁵

5. He then told me Chinese Minister here had gone to Europe and would be absent several weeks. Before going he had made some counter-proposals to outline which denatured it in so fundamental a manner that Dr. Hornbeck, after reminding him that United States Government had never considered themselves to be committed by it, had told him it should now be considered as 'disposed of' and that during his absence State Department would and . . .⁶ draw up other tentative proposals for his consideration on his return. Dr. Wu was warned against expecting to persuade United States Government to accept agreement of such a nature that other Powers would not accept it: there was most-favoured-nation clause to be remembered.

6. Incidentally Dr. Wu had said that Chinese Government could not accept a commission for examination of codes. It would be useless unless it suggested alternative ones and this in view of differing legal systems of western Powers it would not be able to do.

7. I asked Dr. Hornbeck whether Dr. Wu's protracted absence would not provide excellent opportunity for transferring conversations to Nanking since it was his request to enter into conversations coupled with United States Government's feeling of commitment to do so if requested that had led to discussions here rather than at Nanking. Dr. Hornbeck replied that United States Government though desirous of co-operating as far as possible saw danger in appearance of 'solidarity' at this stage at least. I explained that united front urged by His Majesty's Government at least in so far as question of negotiating only at Nanking was concerned meant I thought not so much Powers acting jointly as a body but that each foreign representative should at

³ No. 233.

⁴ For the plan put forward by Professor James Shotwell see *Problems of the Pacific 1929: Proceedings of the Third Conference of the Institute of Pacific Relations, Nara and Kyobo, Japan, October 23–November 9, 1929* (Chicago, 1930), pp. 345–55.

⁵ For the scheme drawn up at Honolulu in 1927 see *Problems of the Pacific: Proceedings of the Second Conference of the Institute of Pacific Relations, Honolulu, Hawaii, July 15–29, 1927* (Chicago, 1928), pp. 91–94.

⁶ The text is here uncertain.

every step consult his colleagues so as to avoid inconveniences of one defending to his detriment a position which the unannounced retreat of another had already left in the air. Even so much evidence of solidarity in Nanking would in Dr. Hornbeck's opinion be dangerous as tending to put Chinese Minister for Foreign Affairs in position of being the sole barrier between foreign Powers and his own people which might end by leading him to think the only safe thing to do was to break off negotiations and declare extraterritoriality abolished forthwith. Negotiations through Chinese Minister at Washington provided him with at least one buffer. As for reasons for United States Government entering into discussions here: Mr. Kellogg⁷ had long since told Chinese he was prepared to do so and had done so. On entering office Mr. Stimson had intimated intention to follow suit. All this had antedated His Majesty's Government's refusal to Mr. Sze's request to negotiate separately in London. Finally question of United States negotiating in Nanking had been disposed of in Mr. Johnson's letter to me of December 4 last.⁸

8. As I left Dr. Hornbeck told me Chinese Minister had said His Majesty's Government were so anxious to be the first to make extraterritoriality treaty that United States Government had better hasten. Dr. Hornbeck had replied that if they were he would be delighted. The sooner anybody did succeed in making a satisfactory treaty the better.⁹

⁷ United States Secretary of State 1925-9.

⁸ See No. 165, note 3.

⁹ Subsequently on March 4, Mr. Campbell wrote to Dr. Hornbeck on the basis of the instructions given in No. 235. This letter and the *aide-mémoire* enclosed therein are printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 394-401.

No. 237

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received March 6, 9.0 a.m.)
No. 103 Telegraphic [F 1277/1/10]

PEKING, March 6, 1930, 12.25 p.m.

My telegram No. 93.¹

United States Counsellor has read to me confidential report of conversation between Dr. Hornbeck and Mr. Campbell on March 4.²

From this I gather that owing to opportune departure from Washington to Europe of Dr. Wu there will be (1) a pause of some weeks in extraterritoriality discussion[s] between him and State Department and (2) some probability of modification by State Department of their proposals to Dr. Wu of January 24 [23] possibly on the line of stiffening these up by inclusion of provision for foreign co-judges and right of evocation in return for criminal jurisdiction.

¹ Not printed. This telegram of March 4 reported that Sir M. Lampson proposed to discuss the extraterritoriality position fully with his United States colleague.

² The reference is presumably to the conversation of March 1 recorded in No. 236.

I hope to submit very soon my considered . . .³ on points in your telegram No. 49⁴ as well as a definite proposal as to the next offer to be made to Chinese on resumption of conversations.

Repeated to Shanghai, Hong Kong and Tokyo.

³ The text is here uncertain.

⁴ No. 234.

No. 238

Sir M. Lampson (Peking) to Mr. A. Henderson (Received March 6, 9.0 a.m.)

No. 104 Telegraphic [F 1278/1/10]

PEKING, March 6, 1930, 12.25 p.m.

Your telegram No. 49.¹

I am now preparing a new and more detailed scheme embodying principle of surrender of both civil and criminal jurisdiction in return for foreign co-judges, plus rights of evocation and other safeguards in our and American plan[s] and providing for geographical exclusion of Settlements and Concessions.

I shall consider to what extent we might make use of Siamese precedent for camouflaging co-judges as advisers but I do not think any useful purpose will be served by openly quoting as a suitable precedent for the Chinese to follow the arrangements made with Siamese in 1909. Nor do I think that it will be any use offering the Chinese abolition of [? minor] criminal jurisdiction if we are to make serious attempt to secure foreign co-judges and this is what in my opinion we should now concentrate upon.

I welcome your decision to accept in principle geographical reservation of Shanghai and I am inclined to think that you overrate probability of Chinese objections to such a proposal. Indeed I am not sure that they do not expect it. We might start off by excluding all Concessions and Settlements and then bargain with rendition of Shameen and Amoy. Tientsin we should I think try to exclude on the same terms as Shanghai. Hankow being no longer a Concession would presumably have to be left out? As regards area to be excluded at Shanghai one's first instinct is to (? reserve)² the whole neighbourhood of greater Shanghai area but on further consideration I am doubtful of the wisdom of asking for too much for fear of antagonizing and alarming the Chinese at the outset. I am consulting His Majesty's Consul-General at Shanghai as to what formula he would recommend. The trouble is that while business interests are mostly concentrated inside the Settlement residents live largely and indeed mainly outside in municipally developed extra-Settlement areas.

As regards period of exclusion I am in favour of falling back if necessary upon some formula such as reconsideration in three years time; that being the period suggested by Judge Feetham.

I hope to let you have my new scheme by Monday.³

¹ No. 234.

² The text is here uncertain.

³ March 10.

Japanese Legation has until recently been in charge of a Second Secretary but a new First Secretary has now arrived and I shall take an early opportunity to consult him. But under existing circumstances Tokyo is probably the best place to ascertain Japanese views and intentions.

Repeated to Mr. Aveling, Shanghai, Nanking, Hong Kong, and Tokyo.

No. 239

Sir M. Lambson (Peking) to Mr. A. Henderson
(Received March 23, 11.0 a.m.)¹
No. 114 Telegraphic [F 1509/1/10]

PEKING, March 10, 1930, 6.40 p.m.

My immediately preceding telegram.²

Following is text of draft agreement. Begins. . . [*Preamble.*]³ The British Government having declared their willingness that January 1, 1930, should be regarded as the date from which the process of the gradual abolition of extraterritorial rights of British subjects in China shall in principle have commenced, the Chinese Government will, with a view to enabling them during the period of transition to familiarise themselves with Chinese laws and judicial procedure, immediately communicate to British Government authorised translations of all Chinese codes actually promulgated and enforced.

The following agreement for transfer of jurisdiction over British subjects in China from British to Chinese Courts shall come into effect upon exchange of ratifications which shall take place one (*sic* ? only)⁴ after Chinese Government shall have promulgated and actually put into operation all the principal Chinese codes in conformity with modern conceptions of jurisprudence and communicated translations thereof to British Legation in China, including civil, commercial, criminal and other primary codes, as recommended in report of Extraterritoriality Commission of 1926.

Note. (This leaves it to British Government to decide when sufficient codes have been promulgated.)

In the meantime the British Government will forthwith take steps to apply as far as practicable in British courts in China all such Chinese laws, ordinances, and regulations as shall have been promulgated and enforced and communicated in translation to British Legation in China.

Note. (This is a unilateral action which can be taken by British Government whenever and to whatever extent they please.)

¹ This date of receipt evidently refers to the amended version of this telegram here printed. The telegram is recorded as having been received, presumably in a corrupt form, on March 18.

² No. 240. These telegrams were despatched in reverse order.

³ The text is here uncertain. This word is supplied from a later version of the telegram as corrected in the Foreign Office.

⁴ The later version here read 'only'.

Article 1. Transfer of jurisdiction.

Subject to and except as otherwise provided by this agreement, British subjects in China will as from the date of exchange of ratifications of this agreement, conform with laws, ordinances, and regulations legally enacted and duly promulgated by Central and local Governments of China, and be subject to jurisdiction of modern Chinese law courts with rights of appeal and in accordance with modern codes and procedure: but they shall not be subject to jurisdiction of magistrates courts or military courts; nor to that of police courts, except in the case of minor offences not punishable by detention or imprisonment or fines exceeding ten dollars. During period of litigation and during hearing of cases in Court, the assistance of duly qualified British or other foreign lawyers and interpreters will be permitted.

Article 2. Establishment of special chambers in high and district Courts.

In district Courts of Harbin, Mukden, Tientsin, Tsingtao, Shanghai, Hankow, Chungking, Canton, Foochow and Yunnanfu, and in High Courts having appellate jurisdiction over such district courts, special chambers shall be established for dealing with civil and criminal cases in which a British subject is the defendant or accused. (The territorial jurisdictions of special chambers to be determined in accordance with practicability of access by agreement between British and Chinese Governments.) All cases involving British subjects as defendants or accused, wherever resident, shall be tried only before these special chambers, which will also be available for cases in which British subjects are involved as plaintiffs or complainants originating within ordinary jurisdiction of Courts to which special chambers are attached.

The chief judge of a special chamber shall be the president of Court to which chamber belongs. Other judges of special chamber as well as its procurators shall be selected from among legal bodies⁵ with training of a long duration. Their names, ranks and salaries will be made known to the public. To each special chamber shall be attached a certain number—say one to three, according to requirements of locality—of legal advisers, who shall be [s]elected by Chinese Government from a list of foreign legal experts nominated by the Hague Permanent Court of International Justice and appointed in accordance with conditions of service and salary recommended by said Court. British representation on this body of legal advisers will be commensurate with magnitude of British commercial interests in China, and as far as may be practicable a legal adviser of British nationality will assist at trial of cases involving British subjects as defendants or accused.

The legal adviser[s] will observe the working of special chambers of district courts and High Courts in question and shall have access to files of proceedings and may present their views on legal questions to judges, who will give due consideration to views thus expressed by legal advisers. It will be the duty of legal advisers to forward to Minister of Justice such reports as they may consider necessary, and copies of these reports in cases concerning British subjects will simultaneously be forwarded to British Legation in China. The legal advisers will be authorised to receive all complaints to

⁵ This word was amended on the file copy to read 'scholars'.

which administration of justice may give rise, with a view to bringing such complaints to the notice of Minister of Justice in order to ensure strict observance of provisions of Chinese law. Similarly legal advisers will be authorised to receive such complaints as may be caused by domiciliary visits, perquisitions or arrests. In all cases in which British subjects are involved as defendants or accused, a legal adviser shall sit as one of the judges hearing the case in both district and High Courts, and concurrence of legal adviser to judgment will be necessary for its validity.

The special chambers above referred to shall be established and legal advisers shall be appointed and installed in office before exchange of ratifications of this agreement.

Article 3. Guarantees in regard to taxation and operation of Chinese courts. With regard to transfer of jurisdiction over British subjects in China from British to Chinese courts, the Chinese Government declares as follows:—

That British subjects will only be liable for payment of such non-discriminatory Chinese taxation as is authorised under legally enacted and duly promulgated laws, ordinance[s] and regulations of Central and local Governments of China; that British subjects will be protected against all illegal taxation and irregular exactions not sanctioned by such legislation⁶ and against all exactions sought to be enforced by executive authority without due process of the law; that municipal taxation will only be enforced against British subjects in accordance with duly authorised municipal regulations,⁷ and that British subjects will be protected against unfair or oppressive methods of assessing or levying such taxation; that Chinese courts will ensure to persons and property of British subjects due protection in accordance with international law and general practice of other countries; and that Chinese courts assuming jurisdiction over British subjects will be kept strictly immune from administrative or other interference by any military or non-judicial authority.

Article 4. The rights of evocation.

In the event of attempts being made to enforce illegal taxation or other irregular exactions through Chinese courts, or should there be grounds for fearing a denial of justice through external interference with operation of courts or from any other cause, the British Government through His Britannic Majesty's diplomatic or consular officer[s] in China, whenever in their discretion they deem it proper so to do in the interest of justice, may, by means of a written (? requisition)⁸ addressed to the judge or judges of the Court in which such case is pending, evoke any case, in any Chinese Court, in which a British subject is the defendant or accused. Such case will then be transferred to competence of British authorities for adjudication, and Chinese jurisdiction

⁶ In his telegram No. 125 of March 13, Sir M. Lampson referred to Foreign Office telegram No. 3 to Nanking (see No. 215, note 2) and suggested the substitution of the words 'and against all taxation not sanctioned by the Central Government of China' for 'not sanctioned by such legislation'.

⁷ Peking telegram No. 125 here suggested the addition of the words 'sanctioned by Central Government of China and that proceeds of such taxation will only be expended on purposes within municipal areas in question'.

⁸ The text is here uncertain, but this word was correct.

in the case will cease. In these evoked cases rights and liabilities of parties will be determined by Chinese laws so far as they have been regularly promulgated and enforced and communicated to the British Legation in China. For dealing with evoked cases the jurisdiction of British courts in China will continue; and Chinese authorities will lend any assistance requested by British authorities in this connexion.

Article 5. Arrest, imprisonment and trial.

British subjects may not be arrested, detained or imprisoned without orders of a modern law court, except when caught in the act of a misdemeanour or crime, in which event they shall within 24 hours after arrest, exclusive of holidays, be brought before the nearest modern law court competent to deal with the case, for hearing. If there is no competent modern court which can be reached within this space of time, any British subject thus arrested will be brought before the nearest competent court with the least possible delay.

Any British subject arrested or otherwise detained shall be permitted to communicate immediately with the nearest British consular officer, and he shall be afforded all possible facilities to that end. British consular officers or representatives shall be permitted to visit any arrested British subject in prison or in premises in which he may be detained.

British subjects under detention or sentence of imprisonment will only be detained or imprisoned in modern prisons or in other premises suitable for detention of European prisoners, where they may be visited by British consular officers or their representatives as occasion may demand.

It is understood that any British subject sentenced to imprisonment for a period of not more than one year will be permitted on written application of his own to convert such sentence into a pecuniary fine at the rate of one dollar for every day's imprisonment.

Release on bail will be granted to any British subject arrested in every instance except in case of crimes punishable by death or imprisonment for life, the amount of bail being reasonably proportionate to the misdemeanour. Such facilities for release on bail will be granted to appellants until sentence of appellate court is given.

British subjects will not be imprisoned or detained for debt unless execution on the debtor's goods actually in China appears to be subject to serious dangers by the act of the debtor or where execution cannot be safeguarded by other means.

All trials, except in special circumstances, of cases involving British subjects, will be open to the public, and all persons interested in the hearing or in the fate of the accused may be present as spectators.

Article 6. Reservation of personal status matters.

British subjects in China will remain under the jurisdiction of British courts in all matters of personal status, i.e. all questions relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship, and interdiction, and in all matters relating to succession to personalty, whether by will or on intestacy, and distribution and winding up of estates, and family law in general.

Article 7. Arbitration.

The Chinese courts will recognise agreements entered into by British subjects between one another and with other foreign nationals and with Chinese citizens for settlement of civil or commercial controversies by arbitration and will enforce awards made in pursuance thereof, unless contrary to public order or good morals.

Article 8. Titles to real property.

It is understood that titles to real property held by British subjects in China will remain undisturbed by provisions of this agreement. All (? individual)⁹ Chinese land transfer fees leviable under duly enacted Chinese legislation will where properly payable under such legislation, be paid by British subjects on account of land transactions in future. But no demands will be made by Chinese authorities for payment of such land transfer fees on transfers of land to British subjects in the past, and titles to land held by British subjects which are otherwise in order will not be called in question on account of non-payment on [of] such transfer fees in the past.

Article 9. Reservation of Settlements and Concessions.

It is understood that this agreement is not applicable in foreign controlled Settlements and Concessions in China, where existing judicial arrangements affecting British subjects, including jurisdiction of British courts, shall remain unchanged until modified by mutual agreement between the two Governments.

Article 10. Immunity of British subjects and their property and shipping from military service and from illegal searches, expropriations, and restraint.

The public buildings and private residences of British subjects in China and their warehouses and business premises and factories, together with all their accessory articles and properties, shall be respected and shall not be subjected to any perquisitions, search, or inspection, and the books and correspondence relating to their commercial transactions shall not be examined, except in accordance with legislation legally enacted and duly promulgated, nor shall the premises occupied by British subjects be forcibly entered without a warrant issued in due form by a modern law court.

British subjects in China will not be subject to any form of military service or to any tax or prestation imposed as a substitute for military service or to military requisitions or contributions of any kind, nor will they be compelled to subscribe to any public loan.

The property of British subjects in China may not be expropriated or the use of it denied to them, even temporarily, except for (? properly Chinese)¹⁰ interests, and in return for fair compensation to be paid in advance. No expropriation may take place without public notice being previously given.

British commercial vessels in ports or coastal waters or rivers will not be subject to discriminatory treatment or restraint or to any form of com-

⁹ The text is here uncertain. In the later version of this telegram this word read 'legal'.

¹⁰ The text is here uncertain. The correct text of this passage as repeated in an unnumbered telegram from Peking of March 30 should read 'except for reasons of public interest, recognized by law as such, and in return'.

mandeering, requisition, inspection, or search, except with agreement of captain of vessel, without a warrant issued by a modern law court; nor will such vessels be boarded by Chinese police, military, or other armed authority, except by agreement with captain of vessel, without a warrant issued by a modern law court. British commercial vessels will not be compelled to carry Chinese troops, whether armed or unarmed, or Chinese military supplies, without permission of owners expressed through captain of vessel.

Article 11. British companies to enjoy same rights as individuals.

British companies, firms, and corporations, incorporated in accordance with British law and operating in China, shall be entitled to all the rights and privileges enjoyed by British subjects under this agreement, including rights enjoyed in Chinese courts whether as plaintiffs, complainants, or defendants. It is understood that such British companies, firms, or corporations, and their branches, agencies or representatives, will not be subject to discriminatory treatment, and will only be taxed in proportion to amount of capital actually employed in China, or in respect of profits and revenues which they have actually earned there.

Article 12. Understanding regarding pending cases.

It is understood that after transfer of jurisdiction over British subjects in China from British to Chinese courts, suits terminated under former British juridical system may not be re-opened and that judgments rendered by former British courts must be executed; that suits pending in British courts at the time of the exchange of ratification[s] of this agreement shall continue until execution of judgment in the said courts, the jurisdiction of which will remain in full force for this purpose; and that Chinese authorities will lend any assistance requested by British authorities in this connexion.

Article 13. Rights of residence and trade.

It is understood that as from date of exchange of ratifications of this agreement British subjects will enjoy right without restriction to reside, trade, and own property throughout China.

Article 14. Most favoured nation treatment for British subjects.

In all matters for which this agreement provides, British subjects shall enjoy all rights enjoyed by nationals of country most favoured in such respects and shall not suffer discriminatory treatment, in regard to taxation, judicial, or any other matter concerned, as compared with citizens of China or nationals of any other country.

Article 15. Existing treaties to remain in force.

Except as modified in this agreement the existing treaties between Great Britain and China shall remain in force.

Article 16. Ratification and duration.

Agreement to be ratified, to come into force upon exchange of ratifications, and to be binding for ten years.

Sir M. Lampson (Peking) to Mr. A. Henderson (Received March 10, 3.0 p.m.)
No. 113 Telegraphic [F 1351/1/10]

PEKING, March 10, 1930, 6.55 p.m.

My telegram No. 104.¹

My immediately following telegram² contains a draft of an agreement prepared by Mr. Teichman providing for surrender of extraterritorial rights subject to trial of cases in which British subjects are involved before a bench of judges including foreign legal adviser (sitting as a judge in cases where British subjects are defendants or accused) and rights of evocation, exclusion of Settlements and Concessions, and other safeguards. Draft is meant to embody relevant provisions of Turkish, Siamese and Persian treaties, adapted to local conditions and plans already put forward by ourselves, and Chinese, Americans and Japanese.

It is obviously not an ideal agreement from foreign point of view, but a compromise solution comprising such safeguards as Chinese may reasonably be expected to grant with some margin (notably as regards duration) with which to bargain.

If this draft meets with your approval I should be glad to be in a position to put it in at an early opportunity with the Minister for Foreign Affairs.

One point which should now at least be considered is whether we should not now aim at simultaneous negotiation and conclusion of a new commercial treaty.

We had originally proposed to negotiate latter before dealing with extra-territoriality but the position is now likely to be reversed, and if so, our original commercial treaty draft will require some revision by inclusion of any stock reciprocal clauses hitherto omitted on account of reservation of extraterritoriality and modification of provisions restricting rights of residence and trade. My own feeling, however, is that however desirable in theory, any attempt to negotiate commercial treaty simultaneously with jurisdiction treaty will lead to indefinite and possibly dangerous delay more particularly seeing that it would involve highly contentious issue of rights to trade and inland navigation and I should prefer to see this latter question on which Butterfield and Swires are now working left aside for the time being. But (? renewal of)³ existing restrictions regarding residence, ownership of land, etc. should presumably be covered in jurisdiction treaty.

Do you agree?

Another point to which I would draw attention is the question of safeguards for shipping which it is sought to cover in last paragraph of Article X attached to the draft. An alternative method of dealing with this point would be to provide in a separate article for definite exclusion of British shipping from any transfer of jurisdiction; but there would be little chance of Chinese accepting any such provision and attempt to include it might merely serve to

¹ No. 238.

² No. 239.

³ The text is here uncertain.

focus Chinese attention on contentious issue of future coast and river shipping trade.

There remains the question of the Dominions—see my letter to Mr. Mounsey of November 7 re naval contract.⁴ Minister for Foreign Affairs will almost certainly raise this point and it will no doubt have to be covered in some form perhaps by an adhesion article. If so something of the kind would have to be added to the draft.

Copies of draft are being forwarded to Judge of Supreme Court and to Mr. Garstin in case they have any observation to offer.

⁴ Not printed.

No. 241

Mr. Campbell (Washington) to Mr. A. Henderson

(Received March 13, 9.0 a.m.)

No. 121 Telegraphic [F 1411/1/10]

WASHINGTON, March 12, 1930, 8.45 p.m.

My telegram No. 98.¹

Dr. Hornbeck on March 10 again raised question of effect of outline on His Majesty's Government's programme in order to say that though he could quite understand your feeling as you did he thought your fears exaggerated. I said be that as it might we were now confronted with apparent necessity of choosing between abandonment of co-judges or of criminal jurisdiction. I said he had wondered why His Majesty's Government thought this was so. He had now seen the reason from account of Dr. Wang's remarks to Sir M. Lampson on February 3. He said Dr. Wu knew perfectly well that outline did not commit United States Government but was tentative stage in personal discussions. It was not as if outline had been handed to Chinese Minister by Secretary of State. Though he preferred not to give considered opinion at the moment, he did not think we were necessarily faced with the alternative. I asked if he then thought it possible to act as if outline had never existed and still to make demands which it had abandoned. He said, yes: not only did he feel able to go back on the outline: he had done so at his last interview with Dr. Wu (see paragraph 5 of my telegram under reference).

As he had not raised the matter I pointed out that even supposing he were right in thinking that in this case our fears that the United States had cut the ground from under our feet were exaggerated, this might not be so in another similar case. Without previous warning of United States proposals we were always exposed to danger of vain profitless and perhaps costly defence of an undermined position which was hardly fair. How was this to be avoided while discussions proceeded here? He said his discussions with Dr. Wu had been unofficial in character and intended to produce tentative basis of agreement for submission to their respective chiefs. Sir M. Lampson on the other

¹ No. 236.

hand had been acting on official instructions. If any definite proposals were contemplated he would let us know beforehand. I said the difficulty was that he would not know when Sir M. Lampson was going to see Dr. Wang nor Sir M. Lampson know when he was going to see Dr. Wu. He admitted this: Sir M. Lampson, however, had the initiative in seeing Minister for Foreign Affairs whereas he must receive Dr. Wu whenever asked to do so. I said he had shown me a memorandum to the effect that at his last interview Dr. Wu had been reminded that the only definite offer made by United States Government had been 'that of December 21st-December 28th'. I said I had no record of being told that any proposals had been made on those dates. He said they were both the proposal of three articles enclosed in Mr. Johnson's letter to me of December 4. They had been presented on lines as given in Mr. Johnson's letter. Dr. Wu had objected as always to mention of most-favoured-nation clause. Dr. Hornbeck had as usual said it was ridiculous to suppose that United States Government would consent to exclusion of such clause from any treaty: he had, however, consented to change last article in form in any such way as to preserve the substance. Proposals thus revised had been given to Dr. Wu on December 28. He had thought Mr. Johnson had informed His Majesty's Embassy of presentation of proposals. He should have done so.

I gather Dr. Hornbeck is now contemplating for submission to Dr. Wu on return tentative proposals stiffer than those in the outline.²

² At this interview Dr. Hornbeck showed to Mr. Campbell a short note disputing the British view of the United States memorandum of January 23. Mr. Campbell does not appear to have been given a copy of this note which is printed in *Foreign Relations of the United States* 1930, vol. ii, pp. 406-7.

No. 242

Sir M. Lampson (Peking) to Mr. A. Henderson (Received May 1)

No. 311 [F 2395/2/10]

PEKING, *March 17, 1930*

Sir,

With reference to my despatch No. 213¹ of the 24th February, covering the text of the agreement relating to the new Chinese courts to be set up in the International Settlement at Shanghai, I have the honour to transmit herewith a copy of a despatch² from Mr. Hewlett, His Majesty's Consul-General at Nanking and one of the British delegates, summarising the course of the negotiations at Nanking leading up to the conclusion of the agreement on the 17th February last.

2. I had the honour, in my despatches No. 1658² and 1806² of the 15th

¹ Not printed. The agreement relating to the Chinese Courts in the International Settlement at Shanghai is printed in Cmd. 3563 of 1930.

² Not printed.

November and the 12th December last, to report the concluding stages of the protracted discussions between the heads of Legation in Peking, which finally led up to the issue of identic instructions, on the somewhat elastic lines we had throughout desired, to the foreign delegates appointed to conduct the negotiations with the representatives of the Minister for Foreign Affairs on behalf of the Legations concerned, namely, Great Britain, the United States, France, the Netherlands, Norway, and Brazil, the other Powers, including Japan, being excluded from direct participation in the negotiations owing to the refusal of the Chinese Government to discuss such matters with countries whose extraterritorial rights they maintained to have lapsed. It will be recalled that this difficulty was got round on the foreign side by the theory that the above-mentioned Legations were, so far as might be considered necessary, conducting the negotiations as a committee on behalf of the rest. It remains to be seen to what extent this diplomatic fiction, so typical of Chinese affairs, will give rise to difficulties in the operation of the new agreement in practice. In theory, Japan and the other Powers in question are now free to adhere to the agreement, in the unlikely event of their being able to induce the Chinese Government to agree to their doing so.

3. The negotiations opened at Nanking on the 9th December. Each side presented drafts and counter-drafts and the discussions proceeded until the meetings were suspended on the 16th December to permit the foreign delegates to refer to the heads of Legation for further instructions on various points, the most important of which were the questions of the enforcement in the court of the Settlement Land Regulations and Bye-laws and present and future Chinese legislation, the scope of jurisdiction of the court, appeals, the procurator system, the form and scope of consular representation in cases in which a foreign interest, including that of the Municipal Council, was concerned, the judicial police, the control of the court prisons, the foreign clerical staff of the court, and the position of foreign lawyers. The joint telegram from the foreign delegates³ in continuation of a series of such telegrams³ referring these points for our consideration, was discussed at a meeting of the interested heads of Legation on the 18th December under the chairmanship of the French Minister as the senior of interested representatives. As there was at this time considered to be a real danger of unilateral action by the Chinese Government on the 1st January (the date on which they had announced their intention of abolishing extraterritoriality) unless some reasonable progress was made towards an agreement in the meanwhile, the matter was dealt with as expeditiously as possible, and the heads of Legation, by working at high pressure, were enabled to refer to their respective Governments by telegram³ on the 20th December their definite views on all the points put to them by their representatives, this identic message taking the form of instructions to the delegates to be acted on four days later unless the Governments concerned signified any objections in the meanwhile. At this, as at all the previous and subsequent meetings on the subject between the interested heads of mission and their staffs, the work of deciding on a line of policy in

³ Not printed.

regard to the various points raised, and formulating the joint reply embodying the same, fell almost entirely to this Legation (and here I should wish to record a warm tribute to the untiring efforts and able advice of Mr. Teichman, Chinese Counsellor to His Majesty's Legation), with the assistance of the Americans; the French representatives holding quite frankly a mere watching brief and intervening only on points affecting the jurisdiction of and judicial arrangements in the French Concession, and the remaining Legations taking little or no part in the discussions and concurring in everything that was suggested. A Japanese representative also attended these meetings, but showed no inclination to participate actively in the discussions. At this meeting on the 18th December the interested heads of Legation further decided to instruct their delegates to warn the Chinese representatives in the negotiations against any attempt at unilateral cancellation of the existing court system in the Settlement pending the result of the negotiations, and a joint telegram⁴ in this sense was also despatched on the 20th December. In the result, whatever may have been the original intention of the hotheads on the Chinese side, no attempt was made to interfere with the operation of the Provisional Court on or after the 1st January.

4. The discussions at Nanking were then resumed until on the 29th December, a further deadlock having been reached, the foreign delegates again referred to the heads of Legation for instructions in another lengthy telegram.⁴ The most serious points now outstanding were the questions of appeals, the enforcement of future Chinese laws, the procurator system, consular representation, judicial police, prisons, clerical staff of the court, and foreign lawyers. The interested heads of mission met again and, by working at the highest pressure (and again mainly thanks to the efforts put forth by Mr. Teichman of His Majesty's Legation), were able to despatch detailed instructions on all the points raised by telegram⁴ on the 2nd January, the day of my departure for the south. Amongst the other matters which came up for discussion at this meeting was the question of making a treaty reservation in regard to the withdrawal of the consular assessors, sitting with the powers of co-judge, from 'mixed cases', a right which we had formally abandoned, but which the French, and in a modified form the Americans, found it necessary in theory to maintain. In general the principles along which I guided my colleagues in all these discussions were that our main preoccupation was the maintenance of law and order by the foreign Municipal authorities inside the Settlement, that we were not otherwise concerned with the protection of Chinese residents in the Settlement against their own courts, and that an adequate measure of liaison between the foreign executive Municipal authorities and the Chinese judicial organisation in the Settlement was essential.

5. I myself left Peking for Nanking on the 2nd January after settling the issue of the joint instructions to the foreign delegates despatched on the same day.⁴ In the meantime the foreign delegates had been authorised to discuss the main points at issue with the Council authorities, and they accordingly

⁴ Not printed.

held meetings at Shanghai on the 31st December and the 1st January with the Chairman of the Council (Mr. H. E. Arnhold) and the Director-General of the Municipal Administration (Mr. Fessenden). This discussion was helpful, as it was ascertained that these gentlemen were in agreement with the policy being followed in the negotiations in regard to the contentious points concerning the procuratorial system, the judicial police, the prisons and the clerical staff. Mr. Fessenden, who, in the light of his past experience and present responsibilities as former Mixed Court lawyer, Chairman of the Council and Director-General of the Municipal Administration, was in the best position to give an authoritative opinion on the points at issue, expressed himself as all against the protection of the Chinese residents in the Settlement against their own authorities, but made the point that it was essential that the Council authorities should be in a position to know what was going on in the court in order to see that no grave irregularities were committed. The Settlement authorities were prepared in the last resort to accept the Chinese procuratorial system subject to specific limitations on the procurator's powers; they would be satisfied if, in the place of a foreign chief clerk, the head of the judicial police were a Municipal employee with an office in the court premises through which all court processes would pass for service by the judicial police or process servers; and, as regards prisons, while they could not agree to Chinese control of the prisons, they would be willing, if necessary, to hand Chinese convicts serving long sentences over to the Chinese authorities outside the Settlement. At these meetings the Chairman of the Council also made the suggestion that the Consular observer might well be sacrificed provided the Council were permitted to have a legal representative in court in cases in which the interests of the Settlement were involved.

6. I arrived at Nanking on the 8th January and lost no time in examining the situation and discussing the points at issue with my representatives in the negotiations. As a result it was agreed, subject to the concurrence of the heads of mission in Peking (who would, I felt confident, follow my lead), to offer the Chinese a settlement along the lines of giving up the Consular observer in return for satisfactory arrangements in regard to the procurators, foreign control over the judicial police, and legal representation for the Council in all cases involving the interests of the Settlement. I myself had always been inclined to favour some alternative 'watch dog system' in place of the Consular observers, along the lines suggested by Mr. Garstin in the early summer, and I therefore welcomed this solution, which, subject to your instructions, I authorised my representatives to adopt. The remaining points, concerning the enforcement of the Settlement Land Regulations, the validity of former judgements, the applicability of future Chinese laws, the issue of warrants, the appearance of foreign lawyers, the jurisdiction of the court and the establishment of some form of joint committee for dealing with disputes, all seemed capable of adjustment if discussions were continued. On the 11th January I received your telegraphic approval of the line of action I had proposed.

7. In the meantime the negotiations had been continued and had reached the expected deadlock. I decided accordingly to intervene and took the

opportunity of an interview with the Minister for Foreign Affairs on the 11th January of discussing with him the court negotiations and the specific points which were delaying a settlement, introducing lightly and tentatively the suggestion for the abolition of the Consular observers in return for adequate alternative safeguards. I resumed this discussion with the Minister for Foreign Affairs in greater detail two days later on the 13th January and made some progress. On the afternoon of the same day I had the opportunity of meeting and talking the matter over with Dr. Wang Chung-hui, the head of the Legislative [*sic*] Yuan, who emphasised the urgent need of a settlement being reached in the near future, as influences were at work pressing for the closure, failing such a settlement, of the existing court on the 1st February. I declined to follow him on to that ground, but our conversation turned out to be fruitful. For on the next day, the 14th January, Dr. Wang Chung-hui unexpectedly came to see me for the express purpose of continuing our discussion and seeking a solution. In the result we were fortunately able to reach an informal and tentative agreement for satisfactory arrangements in regard to the procurators, the judicial police and legal representation for the Council, on the understanding that the consular observer system would be abolished. And it was agreed that the foreign and Chinese delegates should seek at their next meeting to reach a definite settlement on the basis of this informal understanding.

8. In the meanwhile, on the 12th January the foreign delegates again met, at His Majesty's Consulate-General at Shanghai, and discussed the principal outstanding points with the Chairman of the Municipal Council and the Director-General, communicating to them the latest Chinese proposals, made before my meetings with Dr. Wang Chung-hui. Messrs. Arnhold and Fessenden were emphatic in stating that the Council must retain control over the judicial police; they repeated their preference for legal representatives of the Council appearing, even if only with a watching brief, in court in all cases in which the Council's interests were involved to the consular observers with their functions limited to watching only a limited category of cases; they maintained their objections to the procurator system, unless hedged round with safeguards, including especially the establishment of some kind of *prima facie* case before a Chinese resident in the Settlement was handed over to the Chinese authorities outside; and they repeated that the Council could not permit Chinese control over the prisons inside the Settlement and preferred that the Chinese authorities should, if they so desired, remove Chinese convicts to Chinese prisons outside.

9. On the 16th January I myself met the Chairman and Director-General of the Council at Shanghai and explained to them the lines of the agreement it was proposed to reach as the result of my informal understanding with Dr. Wang Chung-hui. Each point was discussed in detail and Messrs. Arnhold and Fessenden expressed themselves as satisfied with the proposals; if these terms could be obtained in regard to the judicial police and the Council's legal representatives, the position would, they considered, be adequately safeguarded, and the consular observers might well be dropped. Mr. Fessen-

den especially condemned the consular deputy system as having been responsible for much unnecessary friction in the past, and, referring to the operation of the court during the past year or two, he said that, while the Chinese judges were often young and inexperienced, they had seemed genuinely anxious to do their best, that the court had, in fact, worked 'reasonably well', and that there had only been two cases with which he, as a lawyer and Director-General of the Municipal Administration, had been seriously dissatisfied. But, looking to the future, it was essential that there should be 'publicity', by which he meant the Council and the public knowing what went on in the court; otherwise, if the court functioned in secret, endless abuses would arise; the position would, however, be adequately safeguarded in this respect by the present proposals. Mr. Arnhold made the point that it was especially important that an agreement should be reached in view of the efforts which the Council were putting forth to improve relations between foreigners and Chinese, and thus pave the way, by the creation of a favourable atmosphere, for the work on which Judge Feetham was engaged.

10. On the 21st January the foreign and Chinese delegates had their final meeting at Nanking and reached a draft agreement *ad referendum* to their superiors. After some last-moment delays, the approval of the principal Governments concerned was in due course obtained. I was at this time at Nanking engaged, *inter alia*, in bringing my colleagues at Peking into line and staving off the introduction of last-minute amendments on both sides, as well as in arranging with the Minister for Foreign Affairs how the agreement was actually to be signed, since there were technical difficulties to be overcome due to the absence of most of the interested heads of Legation in the north. All this time the Chinese Government departments concerned were restless under the pressure of the more impetuous elements in the Government and party, but eventually I was able to clinch matters by arranging for an exchange of notes between the Minister for Foreign Affairs and the heads of mission concerned, agreeing to sign the draft, as drawn up by the delegates, and to accept the 1st April as the date of enforcement, thus affording a delay of two months for preparations for the transfer in place of the two or three weeks for which the Chinese had been pressing. In all these rather intricate arrangements my colleagues in Peking were content to leave matters entirely in my hands, though I should mention that I received most welcome support from the new American Minister, Mr. Nelson Johnson, who at this moment arrived in China and presented his credentials at Nanking.

11. It was eventually agreed that the difficulties as regards signature could best be overcome by causing the agreement to be signed by special representatives of the Minister for Foreign Affairs and of the Heads of Mission concerned, and in this way the agreement was finally concluded at Nanking on the 17th February. As reported in Mr. Hewlett's despatch the French delegate was unable, owing to last-minute instructions connected with the unilateral foreign declaration in reservation of treaty rights, to sign with his colleagues, but adhered to the agreement a few days later. It will be noted that the agreement was signed only in English (the Chinese text being a mere

translation and unsigned), the Chinese waiving their usual insistence on a Chinese, or third language, ruling text on its being pointed out to them that there were, as well as British and American, French, Dutch, Norwegian and Brazilian signatories, and that each might equally claim to sign in their own language.

12. I should mention that on the 8th February, when I met the Joint Committee of the British Chamber of Commerce and China Association at Shanghai to explain to them the position in regard to the extraterritoriality negotiations, I took the opportunity to cause Mr. Garstin to read and explain to them the court agreement, then still a draft, and that there was no comment or criticism, the Joint Committee appearing to concur in my view that the terms obtained were reasonably satisfactory and better than could have been expected a few weeks before, when the divergence of view between the foreign and Chinese negotiators seemed so acute as to render any settlement unobtainable and likely to precipitate a serious crisis.

13. Reviewing the actual agreement, it will be seen that the fifteen points, originally referred by the foreign delegates to the heads of mission for their instructions, were disposed of as follows:—

- (1) *Enforcement of Settlement Land Regulations and Bye-laws.*—A formula was arrived at and embodied in article 2 of the agreement, to which was added a unilateral declaration by the foreign delegates reserving the right to object to the enforcement of any Chinese legislation incompatible with the Land Regulations.
- (2) *Scope of the Jurisdiction of the Court.*—It was agreed, in paragraph 1 of the attached exchange of notes, that, with certain defined exceptions, this should remain unchanged.
- (3) *Appeals.*—This vexed point was settled by the inclusion in the new judicial establishment to be set up in the Settlement of a branch high court, final appeal being to the Supreme Court of China at Nanking, which deals only with points of law.
- (4) *Procurator System.*—This is admitted, but it is provided, in article 6, that no person found in the Settlement is to be handed over to the Chinese authorities outside without a preliminary investigation in the court, if only to establish his identity, while under article 5 the functions of the procurators are specifically limited to inquests and certain categories of cases concerning offences against the State; their investigations are to be conducted publicly (instead of *in camera*, as is usually the custom in China), with counsel for the accused being present if desired; and in other cases the municipal police or party concerned will prosecute.
- (5) *Present and Future Chinese Laws.*—These are to be enforced in the new courts (article 2), but in a separate unilateral declaration the foreign representatives reserve the right to object to the enforcement of any future law that may prejudice the Land Regulations or the maintenance of peace and order in the Settlement.

- (6), (7) and (8) *Consular Representation, its Form and Scope*.—This system, as indicated in the preceding paragraphs, is formally abandoned in return for adequate safeguards on other points and the substitution of the arrangement whereby legal representatives of the Council will appear in court in any cases or proceedings in which the Council considers the interests of the Settlement to be involved (article 8).
- (9) *Judicial Police*.—These are to be appointed upon the recommendation of the Municipal Council (article 6), while it is further provided, in paragraph 3 of the exchange of notes, that one of the officers of the judicial police so appointed will have an office in the court premises through which all judicial processes of the court will pass. Although it is not specifically stated in the agreement, this officer will, in fact, be a foreigner, as he will be recommended and, therefore, furnished (like the rest of the judicial police) by the Municipal Council, and he will in this way take the place of the present chief clerk.
- (10) *Countersigning of Court Processes*.—These are to be valid after signature by a judge of the court (article 6) for execution by the judicial police or process servers, but the foreign representatives make a reservation of treaty rights in this connexion in their unilateral declaration.
- (11) *Prisons*.—This point has been settled (article 7) by leaving the prisons, other than the House of Detention for civil cases and the women's prison, under the control of the municipal authorities, while providing that Chinese convicts shall, if so desired, serve their sentences in Chinese prisons outside the Settlement.
- (12) *Clerical Staff*.—The chief clerk is to be replaced by the special judicial police officer referred to under (9) above.
- (13) *Judgments of former Mixed Cases*.—These are safeguarded in the fourth paragraph of the exchange of notes.
- (14) *Appearance of Foreign Lawyers*.—Duly qualified foreign lawyers are permitted to appear in all cases in which foreigners, including the Municipal Council, are parties (article 8); as an agitation was started against the agreement by the foreign lawyers of Shanghai, on the grounds that their interests had not been adequately protected, and that they would, in fact, be excluded from the court by a strict application of the Chinese regulations governing legal practice, I subsequently secured with some difficulty from the Minister for Foreign Affairs an assurance, embodied in an initialled record of our conversation, that it is not the intention of the Chinese Government to require foreign lawyers entitled to practice in the new courts to have a knowledge of the Chinese language or to be members of the Chinese Bar Association, and that certificates entitling them to practice would be granted to foreign lawyers who were duly qualified. The Chinese negotiators were throughout not easy to deal with on this point, and it must be admitted that the Chinese court authorities have, in fact, suffered a good deal during the past two or three years at the hands of a certain type of foreign Shanghai lawyer. The Minister

for Foreign Affairs assured me that it was not their intention to exclude reputable British lawyers, but intimated that they must insist on being in a position to control the appearance of foreign lawyers in the courts. As a matter of fact it appears unlikely that British lawyers (apart from the municipal police prosecutor, who is at present an American) will in future do much actual court work, which, especially in view of the new conditions which will prevail after the 1st April, can probably be better carried out by their Chinese legal associates.

- (15) *Rules of 1902 defining the Jurisdiction of the Settlement and French Concession Courts.*⁵—This was one of the few points in which my French colleague took any interest, and the continuation of the present practice was provided for in the second paragraph of the exchange of notes.

14. Amongst the other points not specifically mentioned in the above list, the most important one, the establishment of some form of joint committee for the resolution of disputes, is covered in article 9 of the agreement. The Joint Committee established under this article falls short of the super authority which His Majesty's Government desired should be brought into existence to bridge the gulf between the foreign executive and Chinese judicial authority in the Settlement, but should fulfil a useful purpose as a form of conciliation board for the adjustment of minor disputes. The Chinese showed from the outset keen resentment at any suggestion for the establishment of any form of super tribunal with a foreign element which would in any shape or form sit in judgment over, and rule on the decisions of, the Chinese courts in question.

15. The agreement represents a compromise, and involves considerable concessions to the Chinese; but I consider that our main objective has been achieved, namely, the establishment within the International Settlement, in accordance with the legitimate aspirations of the Chinese, of a Chinese court as free as possible from foreign interference with its operation, but under conditions which should safeguard the maintenance of law and order by the foreign municipal authorities responsible therefor. Like all agreements concluded with China nowadays, this settlement of the vexed question of the Shanghai Court postulates a reasonable measure of goodwill on both sides; and it is regrettable that Mr. Green, the editor of the 'North China Daily News' of Shanghai, the leading British newspaper in China, should, with characteristic bad judgment, have done his best, since the conclusion of the agreement, to poison the local atmosphere in which it will be launched by a series of intemperately worded and ill-informed leading articles attacking the agreement and those responsible for its conclusion. Mr. Green's principal line of attack was to argue that the agreement had been made by the diplomats over the heads of and without consultation with the Council. But it will be apparent from the above account of the negotiations, as well as from a perusal of my telegraphic reports at the time, that the Chairman of the Council

⁵ Printed in *British and Foreign State Papers*, vol. 94, pp. 793-4.

and the Director-General of the Municipal Administration were, as a matter of fact, kept fully informed and were closely consulted by the foreign negotiators throughout. On learning this, Mr. Green (who persists in maintaining that the ratepayers and Municipal Council of the International Settlement enjoy something like the status of the people and Government of an independent sovereign State) turned the vials of his wrath on the Chairman of the Council; and it appears that it was largely due to this agitation that Mr. Arnhold failed to secure re-election at the recent municipal elections. As a matter of fact, I feel that we owe a very real debt to Messrs. Arnhold and Fessenden for their statesmanlike advice and support throughout the negotiations; and it is, I fear, small tribute to the sagacity of the Shanghai ratepayers that Mr. Arnhold should have been dropped from the Council, if, in fact, his failure to secure re-election was on this account.

16. In conclusion, I desire to place on record my appreciation of the skill, tact and patience shown by my representatives, in Messrs. Garstin, Aveling and Hewlett, in the negotiations. I especially commend the services in this connexion of Mr. Garstin, to whose unique knowledge of his subject, and patience in these troublesome and protracted negotiations, the final settlement was largely due. I have already placed on record earlier in this despatch the debt which I owe to Mr. Teichman of this Legation for his untiring assistance and unfailing advice in the handling of this intricate and highly important question. It is mainly due to his efforts that a solution was eventually found.

I have, &c.,

MILES W. LAMPSON

No. 243

Mr. Campbell (Washington) to Mr. A. Henderson
(Received March 19, 9.30 a.m.)

No. 131 Telegraphic [F 1543/1/10]

WASHINGTON, March 18, 1930, 4.45 p.m.

My telegram No. 117.¹

Dr. Hornbeck informs me by way of preliminary indication of State Department's views that treatment of the problem of International Settlement (or whole port) at Shanghai as a question separate and distinct from the general question of extraterritorial jurisdiction would not constitute application of principle of geographical regions. Department incline at this stage to the

¹ Not printed. Washington telegrams Nos. 115 (see below) and 117 of March 11 referred to Mr. Campbell's interview of March 10 with Dr. Hornbeck (see also No. 241). Mr. Campbell reported that Dr. Hornbeck had told him that the State Department had not yet considered the question of Shanghai very carefully, though he added, speaking personally, that 'he had always considered Shanghai a particular British interest'. Mr. Campbell then gave Dr. Hornbeck the Foreign Office's 'present views very roughly'. He also gave Dr. Hornbeck a 'brief verbal outline of developments' as shown in Nanking telegram No. 85 (No. 227), Foreign Office telegram No. 49 to Peking (No. 234) and Shanghai telegram No. 14 to Peking (see No. 228).

view that it would be well to make distinct indication treating Shanghai as self-contained problem. More detailed and formal expression of views promised very shortly.

Yesterday I read Dr. Hornbeck at length, substance of telegrams referred to in my telegram No. 117, last paragraph, and have given him *aide-mémoire*.² He made no comment beyond that contained in previous paragraph as regards Shanghai.

As regards co-judges and criminal jurisdiction (my telegram No. 115).³ He gave me copy of memorandum which he has telegraphed to United States Ambassador, London, and United States Minister, Peking, for communication to you and to Sir M. Lampson respectively.⁴ Gist is that State Department think provision for both is desirable: but co-judges more desirable of the two. They think Chinese will resist co-judges more than criminal jurisdiction. They are ready in their negotiations to propose both to Chinese stressing co-judges. They cannot say in advance which they would be ready to abandon first, this depending on circumstances as they arise.

They expect to keep Foreign Office informed of any modification or development in connexion with this expression of views.

As regards State Department's statement of preference for co-judges, Dr. Hornbeck said this was decided on in deference to our and Japanese views. Responsibility was really ours as State Department were not hopeful of Chinese acceptance. As regards rights of evocation the Chinese had so far consistently rejected the idea.

² Not printed. This *aide-mémoire* was based on the telegrams referred to in note 1 above. Dr. Hornbeck's reply of April 2 is printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 424-5.

³ Not printed. See note 1 above.

⁴ This memorandum and Dr. Hornbeck's covering letter of March 17 are printed *ibid.*, vol. ii, p. 408.

No. 244

*Sir R. Lindsay*¹ (*Washington*) to *Mr. A. Henderson* (*Received April 4*)

No. 453 [F 1874/1/10]

WASHINGTON, *March 20, 1930*

Sir,

In his telegram No. 98,² paragraph 7, Mr. Campbell reported that, in discussing the question of the preservation by the interested Powers of a united front in negotiating with the Chinese Government on the abolition of extraterritoriality, Dr. Hornbeck had informed him the United States Government saw danger in the appearance of solidarity among the Powers—at this stage at least. Dr. Hornbeck, in making this statement, gave Mr.

¹ Sir R. Lindsay had been appointed H.M. Ambassador at Washington on March 11, 1930, on the retirement of Sir E. Howard.

² No. 236.

Campbell a memorandum setting forth the position of the United States Government, and gave him to understand that its substance had been communicated to the United States Embassy in London, who were then in correspondence with your Department on this question. In case, however, it may be useful to have on record, I now have the honour to transmit to you the text of this note of the United States Government's policy. The Netherlands Minister has informed Mr. Campbell that a similar statement was recently communicated to him by Dr. Hornbeck.

I have, &c.,

RONALD C. LINDSAY

ENCLOSURE IN No. 244

Note of United States Government's Policy respecting Extraterritoriality

February 28, 1930

With regard to the type of agreement which must be reached, the position of the American Government remains as stated in the concluding paragraphs of the notes to the Chinese Government of the 10th August and the 1st November.

With regard to procedure, the American Government realises that the problem involved in connexion with the proposed abolishment [*sic*] of extra-territorial jurisdiction in China is one of common concern, and it wishes, as far as possible, to co-operate with the other Governments concerned, but it does not believe that the solution of the problem would be facilitated by the fact or the appearance of solidarity, at the present stage at least, on the part of the foreign Governments concerned. It believes that the solution of the problem may be facilitated most readily by frank exchanges of views, suggestions and information.

The American Government is at present studying views expressed by other Governments, is studying several possible plans, is observing developments in the political situation in China, and may be expected to proceed slowly with the negotiations on this subject.

No. 245

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received March 21, 10.25 a.m.)

No. 142 Telegraphic [F 1628/1/10]

PEKING, *March 21, 1930, 3.50 p.m.*

United States Minister has returned to Peking and I discussed extra-territoriality question fully with him on March 20.

He showed me a telegram of March 19 from the State Department in which the latter express themselves as now in favour both of co-judges and reservation of criminal jurisdiction with, if it came to a choice between the

two, a preference for co-judges. A paraphrase of their telegram is contained in my immediately following telegram.¹

I explained the position which we had reached and the genesis of our new proposals and I read to him new draft plan contained in my telegram No. 114² making it clear that it had been drafted here and was only now being referred to you for your approval and that I had no idea what the reaction of His Majesty's Government might be.

He expressed the opinion that this draft constituted a possible basis on which we might agree for submission to our respective Governments and he himself made the proposal that we here might forthwith set to work and see if we could not prepare agreed recommendations in this sense. I readily concurred and am now communicating to him our draft (see my telegram No. 114) as amended by my telegram No. 125.³ Mr. Teichman will then meet United States Counsellor with a view to producing basis for an agreed version. We had a brief discussion about Article 3 (guarantees in connexion with taxation) on which he seemed to have some useful opinions and Article 9 (reservation of Concessions and Settlements). I explained in connexion with the latter that it only represented a statement of principle and that I had drawn your attention to possible desirability of making some wider reservation in connexion with Shanghai. He first sounded a note of warning in regard to what he represented to be the attitude of his Government towards the idea of (? attempt)⁴ at extension of municipal control beyond the Settlement limits with special reference to extra-Settlement roads question; but in the course of conversation he appeared fully to realise desirability of giving Judge Feetham and all concerned time to seek to work out a settlement of Shanghai question and importance of providing that nothing in any new (? jurisdiction)⁴ agreement should prejudice their efforts in that direction and expressed himself as in favour of some adequate reservation to that end.

I mentioned desirability of close co-operation with the Japanese but he urged (and I agreed) that it would be a mistake to complicate matters by bringing them or anyone else in at the present stage. Secretary in charge of Japanese Legation here at present is little more than a 'Chargé d'Archives'.

During conversation he alluded to the question of transfer of political negotiations to Nanking. He seemed to think this might be feasible once London and Washington had come to some definite agreed basis of the programme for which to work. And I gathered that he was expressing this view to State Department in reply to their request for his advice.

Repeated to Tokyo, Hong Kong, Mr. Ingram⁵ and Nanking.

¹ Not printed. See No. 243, note 4.

² No. 239.

³ Not printed. See No. 239, notes 6 and 7.

⁴ The text is here uncertain.

⁵ Mr. Ingram succeeded Mr. Aveling as Sir M. Lampson's personal representative in the South on March 18.

*Mr. A. Henderson to Sir M. Lampson (Peking)**No. 324 [F 1655/1/10]*FOREIGN OFFICE, *March 26, 1930*

Sir,

The Counsellor of the Japanese Embassy called at the Foreign Office on 20th March and asked Sir Victor Wellesley whether he could give him an answer to the memorandum on the subject of extraterritoriality in China which the Japanese Ambassador had handed to him on February 4.¹

2. Sir Victor Wellesley told Mr. Hori that it was true that he had promised His Excellency to examine the memorandum and to let him have my considered views. Unfortunately, however, an event had supervened which threatened to put everything back into the melting pot at any rate for the time being and it had therefore been impossible to carry out his promise. Broadly speaking, the Japanese memorandum was entirely in harmony with our views; but, as Mr. Hori no doubt knew, the State Department in Washington had made a virtual offer to Dr. Wu almost amounting to a complete surrender, which threatened to undermine the position of all the other Powers. In addition I had been in constant communication with you on the subject, and I had not yet received your final views. All this had made it impossible for us to answer the Japanese memorandum because I was not in a position to make up my mind definitely. The United States Government had now assured me that the proposals which they had made to Dr. Wu did not amount to a firm offer and that they were quite prepared to withdraw them. It remained, however, to be seen whether the Chinese would view the matter in the same light and whether the United States Government would be able to escape from the position which they had created.

3. Until the American position was cleared up it was impossible to say what attitude His Majesty's Government could adopt, and the Japanese Government would probably be faced with much the same difficulty. Sir Victor Wellesley said that he had always hoped, and considered it essential, that the Powers should act together in this matter. He still hoped that this might be possible, but if this was now past praying for owing to the American action it was all the more necessary that we and the Japanese should cooperate.

I am, &c.,

ARTHUR HENDERSON

¹ See No. 217, note 2.

No. 247

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received March 27, 2.30 p.m.)
No. 155 Telegraphic [F 1744/1/10]

PEKING, March 27, 1930, 7.55 p.m.

My telegram No. 142.¹

I have reached agreement with my United States colleague on draft as an identic recommendation for submission to our respective Governments—see my immediately following telegram.² We are shortly communicating copies to our French, Japanese, Dutch and Norwegian colleagues for their information with verbal explanation that draft merely represents the result of our joint personal study of the problem for consideration of our Governments. We shall probably limit ourselves in the case of our Brazilian colleague to communicating verbal outline to him.

United States Minister is telegraphing draft to Washington at once.

Repeated to Tokyo, Hong Kong, Shanghai for Judge, Nanking Mr. Ingram, all by post.

¹ No. 245.

² No. 248.

No. 248

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received March 28, 9.0 a.m.)
No. 156 Telegraphic [F 1755/1/10]

PEKING, March 28, 1930, 12.0 noon

My immediately preceding telegram.¹

Agreed draft is represented by draft contained in my telegram No. 114² with the following amendments.

Preamble. Alter last sentence of 1st paragraph to read 'immediately communicate to British Government all the Chinese codes actually promulgated and enforced together with authorised translations thereof'. Corresponding sentence in next paragraph to read 'and communicate[d] them together with authorised translations thereof to British Legation in China'. Delete last sentence of this paragraph namely 'as recommended in report of extraterritoriality Commission of 1926'. Last sentence of last paragraph alter words 'in translation' to 'with translations'.

Article 1 is redrafted to read as follows: 'except as otherwise provided by this agreement, British subjects in China will, as from date of exchange of ratifications of this agreement, be subject to jurisdiction of modern Chinese law courts, with rights of appeal and in accordance with modern codes of laws and procedure. They shall not, however, be subject to jurisdiction of police courts, except in the case of minor offences not punishable by detention or

¹ No. 247.

² No. 239.

imprisonment or fine[s] exceeding \$10, nor to jurisdiction of magistrates' courts, nor to that of military courts or courts or tribunals of any kind other than the regular modern law courts of China. From the inception of all legal proceedings, both civil and criminal, until the conclusion thereof, including hearing of cases in court, the assistance of duly qualified British or other foreign or Chinese lawyers and interpreters will be permitted'.

Article 2, opening sentence to read 'in district courts in Harbin, Mukden, Peking, Tientsin, Tsingtao, Shanghai, Nanking, Hankow, Changking [Chungking], Canton, Foochow and Yun[n]anfu'. Second paragraph: after 'with training' add 'and experience'. Delete 'a certain number say one to three according to requirements of locality of'. Delete 'British representation on this body of legal advisers will be commensurate with magnitude of British commercial interests in China'. In place of above sentence insert following: 'It is understood that a legal adviser need not permanently reside at the port in which the special chamber of district court to which he is assigned is established, and, furthermore, that there shall be a thoroughly flexible and practicable system of administration of assignments in order to ensure efficiency and economy in employment of the said legal advisers'. Third paragraph delete 'on legal question'. Delete 'all' before 'complaints'. Alter next sentence to read 'similarly, the legal advisers will be authorised to receive any other complaints, including such as may be caused by domiciliary visits, perquisitions, or arrests, etc.'. Last sentence of this paragraph to read 'and concurrence of legal advisers [? adviser] to any judgment or order will be necessary for its validity.'

Article 3. Alter latter half of opening declaration to read 'under legally enacted and duly promulgated laws, ordinances, and regulations of central, provincial, and municipal governments of China, the texts and authorised translation of which shall first be communicated to British Legation in China.' In third declaration after words 'duly authorised municipal regulations' add the words 'sanctioned by central government of China and that proceeds of such municipal taxation will only be expended on relevant purposes within municipal areas in question.'

Article 4. Alter first sentence to read 'the British Government, through His Britannic Majesty's diplomatic or consular officers in China, whenever in their discretion they deem it proper so to do in the interest of justice, may by means of a written requisition addressed to the competent Chinese authorities, including judge or judges of court in which such case is pending, evoke any case pending in any Chinese Court in which a British subject is defendant or accused.'

Article 5. First paragraph first sentence is altered to read 'British subjects may not be arrested, detained, or imprisoned, except upon an order formally issued by a modern law court specifically citing by title and section the law under which and the offence for which such arrest is made, save when caught in the act of misdemeanour or crime. They shall within 24 hours after the arrest, exclusive of legal holidays, be brought before the nearest modern court competent to deal with the case for hearing.' In next sentence insert

word 'modern' before 'court'. Third paragraph. Delete words 'of European prisoners' and alter sentence to read 'or any other premises suitable for their detention'. Paragraph 5, insert word 'immediate' after [*sic* ? before] word '(? release)'.³ Alter word 'misdemeanour' to 'offence alleged'. Paragraph 6, redrafted to read 'British subjects shall not be subject to imprisonment for debt. If, however, execution on debtor's goods actually in China appears subject to serious dangers by act of debtor, or if execution cannot be safeguarded by other means, he may be detained in manner provided for such cases under Chinese law.' Paragraph 7, delete words 'except in special circumstances'.

Article 6, alter opening words to read 'British subjects in China will not be amenable to Chinese jurisdiction in all matters'.

Article 8, first two sentences redrafted to read 'the Chinese Government agrees that titles to real property held by British subjects in China shall be regarded as indefeasible and shall remain undisturbed by provisions of this agreement. All legal Chinese land transfer fees leviable under regular Chinese legislation as provided for in Article 3 will, where properly payable'. In last sentence add words 'or from' after [before] words 'British subjects in the past'; and lower down delete words 'which are otherwise in order'.

Article 9. Redrafted to read 'it is understood that this agreement is not applicable in foreign-controlled Settlements and Concessions in China where existing judicial arrangements affecting British subjects shall remain unchanged until modified by mutual agreement between the Governments concerned. It is furthermore understood that this agreement is not applicable within a radius of 50 li from present custom-house at Shanghai.'

Article 10. First paragraph. After words 'shall not be examined' proceed as follows to the end of paragraph: 'except as specifically provided for in non-discriminatory legislation legally enacted and duly promulgated. In no case shall premises occupied by British subjects be forcibly entered except upon a warrant formally issued by a modern law court specifically citing by title and section the law under which action is authorized.' Second paragraph: opening sentence to read 'British subjects in China will not be subjected directly or indirectly to any form'; and alter last sentence to read 'nor will they be compelled to subscribe directly or indirectly to any public loan or any other form of forced levy.' Paragraph 4 redrafted to read as follows 'British commercial vessels in Chinese ports or coastal waters or rivers will not be subject to restraint or to any form of commandeering, requisition, inspection, or search, nor will such vessels be boarded by Chinese police, military or other armed authority, unless by agreement with the captain of the vessel, except upon a warrant formally issued by a modern law court specifically citing by title and section the law under which action is authorized. British commercial vessels will not be compelled to carry Chinese troops, whether armed or unarmed, or Chinese military supplies, without permission of the owner expressed through the captain of the vessel.'

Article 11. Alter opening words to read 'British companies, firms, partnerships, and corporations, incorporated or organized in accordance with'.

³ The text is here uncertain.

Article 12. After words 'Chinese courts' add words 'as provided for in this agreement'. In the same sentence alter words 'may' and 'nominate [*sic* ? must]' to 'shall'.

Article 13. This whole article is placed in brackets to indicate American reservation (see my immediately following telegram⁴).

Article 14. In title alter words 'most favoured nation' to 'non-discriminatory'.

A copy⁵ of draft as above amended follows via Siberia and copies are being sent by post to Tokyo, Hong Kong, Shanghai, Nanking and His Majesty's Judge, Mr. Ingram and Mr. Garstin.

Repeated as in my immediately preceding telegram.

⁴ No. 249.

⁵ Not printed. The text of the agreed draft as received in Washington is printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 418-23.

No. 249

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received March 29, 9.0 a.m.)

No. 157 Telegraphic [F 1777/1/10]

PEKING, March 28, 1930

My telegram No. 156.¹

I submit following explanatory notes on agreed draft resulting from my discussion with United States Minister. Amendments made in our original draft are, it will be noticed, mostly designed to tighten up safeguards.

Article 2. Peking and Nanking have been added to list of places where special courts are to be established. These like Changsha (not included) are border-line cases. At first sight one is inclined to include all the principal centres for convenience of British residents but there is further important consideration that the more of these special courts that are established the less likely they are to function satisfactorily and from this point of view it is probably better to limit list of courts to places where it is really necessary to have them. In actual fact legal cases involving British subjects at outposts such as Ichang, Changsha and Nanking etc. are rare. Bracketed words in first paragraph of this article² concerning jurisdiction of special chambers refer to arrangements which will have to be worked out later on and provided for either in agreement or in an annex or exchange of notes.

Article 6. We discussed desirability of adding paragraphs in sense of 2nd and 3rd paragraphs of Article 16 of Turkish treaty of 1923³ but decided to leave the point for consideration by home experts.

Article 9. We discussed desirability or otherwise of making specific reservation of leased territories. Correct view would seem to be that a new jurisdiction agreement cannot affect status of leased territories held under separate

¹ No. 248. ² See No. 239. ³ See *British and Foreign State Papers*, vol. 117, p. 610.

conventions which remain in force (see article 15 of our draft). Moreover to include reference to leased territories in our draft might merely serve to concentrate attention on Kowloon. On the other hand Chinese *might* find some pretext for making trouble if point is not specifically covered. Present wording of draft is so framed as to permit of covering the point by inclusion of words 'or leased territories' before words 'in China'⁴ if you consider specific reservations necessary. Personally I am against it—and so I gather is French Minister. Americans are of course not concerned with either leased territories or Settlements and Concessions (except Shanghai) and may eventually decide to word their reservation in more general terms by referring for instance to 'suspension of controlled areas'. Formula contained in draft providing for reservation of greater Shanghai area was proposed and drafted by American Counsellor. Alternative formula drafted by His Majesty's Consul General, Shanghai, 'provided, however, that as regards Shanghai the area to be excluded under this article shall be the International Settlement, the French Concession, and the Chinese municipal district of Shanghai as shown on attached plan'. Mr. (? Brenan)⁵ while preferring his own draft as simpler in practice because conforming to existing Chinese boundaries considers either will do as regards area and I therefore accepted American formula.

Article 13. United States Minister has to make reservation about this article in view of obvious difficulties and contentious issues raised thereby. I said almost certainly Chinese would expect reciprocity and talk about Dominions. We might have to add some limiting phrase eventually covering this point if they made it.

Repeated as in my immediately preceding telegram.

⁴ A pencilled note on the file copy adds 'In art. 9'.

⁵ The text is here uncertain.

No. 250

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 100 Telegraphic [F 1697/103/10]

FOREIGN OFFICE, *March 28, 1930, 4.30 p.m.*

Your despatch No. 43¹.

Subject to certain formal alterations which are enumerated in my immediately following telegram² I authorise you to sign the convention and agreement as enclosed in your despatch. Full power will reach you by bag about April 7. It is of course understood that if Chinese Government are not in control of Shantung at the time when actual rendition is contemplated in the convention, His Majesty's Government will not be bound to carry it out.

I am glad of this opportunity to offer you my hearty congratulations on your skilful and successful conduct of these negotiations.

¹ No. 222.

² No. 251.

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 101 Telegraphic [F 1697/103/10]

FOREIGN OFFICE, *March 28, 1930, 5.40 p.m.*

Following are alterations referred to in my immediately preceding telegram.¹

Convention.

Preamble line 6: for 'Great Britain' substitute 'His Britannic Majesty'.

Article 1, line 7 et seq.: for 'is now returned . . . to the National Government of the Republic of China' substitute 'is hereby returned by His Britannic Majesty to the Republic of China'.

Article 2, line 2: delete 'between China and Great Britain'.

Article 3, line 4: for 'rendition' substitute 'the coming into force of the present Convention'.

Article 4, line 1: between 'United Kingdom' and 'will', insert 'of Great Britain and Northern Ireland'.

Article 4, line 5: for 'Government of' substitute 'administration in'.

Article 5, line 5: for 'former' read 'first-named'.

Article 11, lines 1 and 2: for 'The National Government of the Republic of China declares that, with regard to' substitute 'when the National Government of the Republic of China assumes'.

Article 11, line 4: for 'retrocession' substitute 'rendition'.

Article 12, line 5: for 'Government' substitute 'administration'.

Article 12, line 6: insert the words 'subject to the terms contained therein' before 'be recognised'.

Article 12, line 3: delete the words 'subject to the terms contained therein' after 'British administration'.

Article 13, line 2 and line 10: for 'Government' substitute 'Administration'.

Article 13, line 14: between 'Republic' and 'should decide', insert 'of China'.

Article 13, line 17: between 'the' and 'foreign property owners' insert 'interests of the'.

Article 15, line 2: between 'Courts' and 'shall be considered' insert 'pronounced before rendition'.

Article 15, line 3: after 'considered' insert 'after rendition'.

Article 15, line 4: between 'were' and 'rendered' insert 'decisions'.

Article 20, lines 7 and 8: between 'exchange of ratifications' and 'in faith whereof' insert the following paragraph.

'The English and Chinese texts of the present Convention have been carefully compared and verified but in the event of there being a difference of meaning between the two, the sense as expressed in the English text shall be held to prevail.'

Article 20, lines 10 and 11: delete the words '(two copies in Chinese and two copies in English)'.

¹ No. 250.

Agreement.

Article II, line 2: delete the words 'declares that it'.

Article II, lines 9 and 10: for the words 'further declares' substitute 'undertakes'.

Article III, (1) line 7: between 'Nevertheless', and 'His Britannic Majesty's Ships', insert 'in the event of war involving either His Britannic Majesty or the Chinese Republic'.

Article III, (1) lines 8 to 10: delete the words between 'Liukingtao waters' and 'in accordance with'.

Article VI. Substitute 'The present Agreement shall be deemed to form an integral part of the Convention signed this day relating to the rendition of Weihaiwei.

'The English and Chinese texts of the present Agreement have been carefully compared and verified but in the event of there being a difference of meaning between the two the sense as expressed in the English text shall be held to prevail.'

No. 252

Sir M. Lampson (Peking) to Mr. A. Henderson (Received April 1, 9.30 a.m.)
No. 168 Telegraphic [F 1821/1/10]

PEKING, April 1, 1930, 1.0 p.m.

My telegram No. 155.¹

United States Minister and I communicated copies of agreed draft with verbal explanations to French Minister and Japanese Secretary-in-Charge of Legation at an informal meeting in my house March 31.

I explained the course of our negotiations so far and the genesis of the new draft arising out of Minister for Foreign Affairs' hypothetical question in regard to surrender of criminal jurisdiction in return for co-judges and evocation and the subsequent crystallization of our ideas in informal consultation with the United States Legation. I made it clear that I had so far no idea what the reaction of His Majesty's Government might be to the draft.

The United States Minister gave a sort of account of his part in the production of the draft. He added that American negotiations or rather preliminary discussions had been proceeding in Washington, that he had as yet received no instructions to negotiate himself in China and did not expect to receive such instructions (this statement did not altogether tally with what he gave me to understand a few days before—see my telegram No. 142²) he added . . .³ think any further progress would be made on American side pending return of United States Secretary of State for Foreign Affairs from London.

French Minister explained that his Government were still waiting for Chinese proposals having signified their willingness to negotiate with geo-

¹ No. 247.

² No. 245.

³ The text is here uncertain.

graphical reservations of existing areas and on the understanding that China would be opened to foreign trade etc. He appeared however to favour draft and remarked that his Government would have to be brought to understand that if they were not prepared to (? follow)⁴ a 'gunboat policy' (as they were not) they would have to negotiate an agreement on some such lines and give up the idea of trying to reconcile a policy of inaction with retention of treaty rights.

Japanese representative made no special comment beyond remarking on importance of article 13 to Japan.

French [Minister] raised question of desirability of reserving under article 9 as in case of Shanghai entire neighbourhood of Concession ports i.e. Tientsin, Hankow and Canton. I said that I had drawn your attention to this point (see my telegram No. 119⁵): it was all a question of how much we thought it desirable to ask for. I should be glad of your views on this suggestion. I am all in favour of it if we can get others into line. But United States Minister was inclined to be sticky on the point.

I am now with concurrence of my above-mentioned colleagues communicating copies of draft to Dutch and Norwegian Chargés d'Affaires and a brief verbal outline to Brazilian Chargé d'Affaires.

We have been at pains to keep our discussions entirely informal. United States Minister sounded a note of warning in regard to danger of giving Chinese the impression that we were making a *bloc* against them (this on instructions he has had from State Department) but I see no reason why we should lay too much stress on this point.

Repeated to Tokyo, Hong Kong, Shanghai for Judge, Nanking, and Mr. Ingram.

⁴ The text is here uncertain.

⁵ Not printed.

No. 253

Sir M. Lampson (Peking) to Mr. A. Henderson (Received May 20)

No. 382 [F 2792/78/10]

PEKING, April 1, 1930

His Majesty's Minister, Peking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs, and transmits herewith copy of despatch No. 50 from His Majesty's Consul-General, Shanghai, dated the 9th March, respecting a conversation with Dr. Wang on Shanghai problems.

ENCLOSURE IN NO. 253

Mr. Brenan (Shanghai) to Sir M. Lampson

No. 50

SHANGHAI, March 9, 1930

Sir,

Dr. C. T. Wang, the Chinese Minister for Foreign Affairs, paid a visit to Shanghai this week end, and I took the opportunity to call on him yesterday

and renew an acquaintance begun several years ago in Peking, when he was the Vice-President of the then Senate.

2. After a preliminary exchange of courtesies, I led up to a question to which I have been anxious to get an authoritative answer in connexion with Judge Feetham's work in preparing a scheme for the future of Shanghai, which should be acceptable to both Chinese and foreigners. Without, however, bringing Mr. Feetham into the conversation at this stage, I asked Dr. Wang what were the views of himself and his colleagues regarding the future of Shanghai and the sort of administration that they wished to see evolved for the government of this city. He began his reply by saying that both Chinese and foreigners were agreed that the whole of the Shanghai district should be brought under one control. The existing division into three areas—International, French and Chinese—caused a triplication of essential services and endless waste and friction, and it conduced to crime, because criminals could escape from one jurisdiction to another. But agreement having been reached on this general principle, a sharp divergence of opinion appeared between Chinese and foreigners as to how this unity was to be achieved. The foreign suggestion was that the present Settlement system of a Sino-foreign municipality should be applied to the whole area, to which the Chinese objected that this merely meant Settlement extension and a further encroachment on China's sovereignty. Many Chinese, on the other hand, argued that the natural solution of the problem was for China to take over the Settlement and bring the whole under purely Chinese control. To this the foreigners replied that the Chinese were not yet capable of doing so with safety to the interests concerned, and that such a change could not be contemplated at present.

3. His own view inclined towards the compromise suggested in Professor Hsia's book on the subject ('The Status of Shanghai'), and he thought that for a limited period a certain amount of foreign participation in the control of the future Shanghai would have to be admitted, but that this would gradually diminish and would eventually have to disappear. In the meantime, he suggested that the foreign Settlements would be wise to prepare for the change, and make it less difficult, by increasing the Chinese personnel in the municipal services, which were at present, in the higher ranks, almost entirely staffed by foreigners.

4. I then said that, assuming the time had come when the last vestige of foreign control had disappeared, it was important to know what form of government was contemplated for Shanghai. Was it to be under the direct control of the Central authorities, with a political mayor and other officials appointed by the Central Government and subject to the direct influence of the Nationalist party machine as at Canton and elsewhere, or was there to be a municipal council elected on the Anglo-Saxon plan by local residents of substance, who had a financial stake in the prosperity of the port? Dr. Wang replied most emphatically that the latter was the goal towards which the Nationalist authorities were striving. He said that Sun Yat-sen had taught that local self-government was essential to the salvation of the country,

and that when they had learned to run their municipalities they would then be able to govern the nation.

5. I remarked that this principle did not seem to be applied anywhere yet in China, and I referred to the official government of Canton. The idea, he replied, was new, but a start had in fact been made in Shanghai. Not only were the Chinese councillors for the International Settlement elected without official interference by local Chinese commercial and financial interests (which I understand is a fact), but that the Mayor of Greater Shanghai, though himself officially appointed, was assisted by a number of councillors locally elected in the same way as those for the Settlement. These councillors, or *tsan shih*, were a new departure, and Shanghai was as yet the only city to have them, but they represented the first step along the road to that system of district autonomy for which the Nationalist party was working in accordance with the teaching of their late leader. I asked whether this contemplated municipal government would have the control of the police and a say in the appointment of judges for the local courts, and he replied yes, that was the intention. In answer to a further question, he said that the Central Government would give a charter to the city defining its rights in such matters.

6. At the end of the interview I thanked Dr. Wang for the interesting conversation, which, so far as I was concerned, was, of course, a purely private one. I had no authority to discuss any changes in the present régime. He said he quite understood that, and then he referred to the task on which Judge Feetham was now engaged. He remarked that he had met the Judge, was much impressed by his personality, and was looking forward with interest to the result of his work.

7. In connexion with Dr. Wang's statement that the Kuomintang was aiming at self-government for Chinese cities, I would draw your attention to the manifesto issued on the 6th March by the Third Plenary Session of the Central Executive Committee of the party. A translation of this document is given in the 'North China Daily News' of the 9th March, and in it the principle of district autonomy is stressed as part of the programme of the late party leader, which 'must not be regarded as empty words'.

8. If Dr. Wang's views are those of his party and Government, which they would seem to be, there are good grounds for hoping that Judge Feetham's report, when issued, will provide a real basis for a solution of the Shanghai problem, though, of course, the struggle will be over the amount of foreign participation in the new municipal government to be established. Nevertheless, it is reassuring to know that the Chinese are themselves aiming at the Anglo-Saxon form of locally elected administration, such as now exists in the Settlement, rather than expecting the latter to adapt itself to the old Chinese system of officially appointed government.

I have, &c.,
J. F. BRENAN

No. 254

Sir M. Lampson (Peking) to Mr. A. Henderson (Received April 4, 9.30 a.m.)
No. 171 Telegraphic [F 1873/1/10]

PEKING, April 3, 1930

My telegram No. 168.¹

I communicated copies of draft agreement on April 1 to Netherlands and Norwegian Chargés d'Affaires with appropriate verbal explanations. Both expressed their appreciation and said they would at once telegraph to their Governments and suggest that copies might if necessary be obtained from London. It was made clear to them that matter had been and was still being handled quite informally and that views of His Majesty's Government on new proposals were not yet known.

Norwegian Chargé d'Affaires stated that he was playing for time in his negotiations with Minister for Foreign Affairs who was not at present pressing him.

I also caused verbal outline of recent developments to be communicated to Brazilian Chargé d'Affaires who described his own position as being the same as that of Norwegians.

He added in strict confidence that his Government having no nationals nor interests in China to speak of were ready to meet Chinese and give up extra-territoriality but he was continually impressing upon them importance of doing nothing which would embarrass us and other Powers concerned.

Repeated to Tokyo, Hong Kong, Shanghai for Nanking, Judge, and Mr. Ingram.

¹ No. 252.

No. 255

Sir M. Lampson (Peking) to Mr. A. Henderson (Received April 5, 11.55 a.m.)
No. 179 Telegraphic [F 1917/103/10]

PEKING, April 5, 1930, 5.40 p.m.

Mr. Ingram's telegram No. 23.¹

Preamble of Convention. Clearly *His* Britannic Majesty must stand. Apart from that it is now a question whether if we get all our other points (including authoritative English text or only signed in English) you would wish to hold out over your desired revision of Article 6 of Naval Agreement. Unless vital to validity of agreement I should have thought we might meet Minister for Foreign Affairs' wishes. If you concur please let me have—if possible in time for Tuesday's² discussion—actual text in full of Article 6 as you would wish to have it signed.

Repeated to Mr. Ingram and Commander-in-Chief.

¹ See No. 256.

² April 8, 1930.

Sir M. Lampson (Peking) to Mr. A. Henderson (Received April 5, 12.40 p.m.)
No. 180 Telegraphic [F 1918/103/10]

PEKING, April 5, 1930, 5.40 p.m.

Following from Mr. Ingram No. 23 of 4th April. Begins:

Your telegrams Nos. 69,¹ 70² and 71³.

I handed Dr. Wang this morning memorandum containing list of proposed textual alterations and we went through them together in detail. He agrees to all except the following:

(a). Preamble. He will agree to desired substitution for 'Great Britain' if text of original 1898 treaty⁴ which neither of us had by us shows that the treaty was not concluded with Great Britain but with His Britannic Majesty. Anyhow we both presume the desired alteration should be to 'Her' and not 'His' Britannic Majesty.

(b). In Article 11 he began by insisting on retention of formula that 'China declares'. After some argument, in which I pointed out that in these arrangements which were being negotiated between equals it was not reasonable to have one party making declarations while the other party gave undertakings, he modified his original attitude to the extent of asking me to let you know that he 'preferred' this declaration formula. I do not anticipate any very serious difficulty over this point.

(c). Article 20. He was at first very sticky about the proposal that the English text should prevail, on the grounds that this had proved a stumbling block in all past negotiations on the subject and that recent Chinese legislation was against it. See your telegram No. 167 to Foreign Office. I quoted the arguments in your telegram [No.] 71 and as I had just come to an agreement with him that there should be no Chinese text of exchange of notes regarding reciprocal customs facilities I ventured as a way out of the difficulty to make personal suggestion that there should be no Chinese text of the Weihaiwei documents. He agreed to consider this idea but quite understand[s] it is a purely tentative one put forward on my own responsibility and without your authority.

(d). Dr. Wang emphatically rejected the first part of proposed text for new Article 6 of agreement. He maintained that Convention dealt with permanent matters while agreement dealt with a transient state of affairs, that it would vitiate the whole idea at the back of present form which document took and that he would have no chance whatever of getting his Government to agree to it as it would hurt Chinese pride. I entirely failed to move him

¹ It has not been possible to trace this telegram in the Foreign Office archives. The reference might possibly be to a repetition to Mr. Ingram of Foreign Office telegram No. 101 to Peking (No. 251).

² i.e. the repetition to Mr. Ingram of Peking telegram No. 167 to the Foreign Office (not printed): cf. paragraph (c) below.

³ It has not been possible to trace this telegram in the Foreign Office archives.

⁴ See No. 83, note 1.

about this and he asked me to let you know that there was no possibility of his ever agreeing to it. As regards second part of article, see (c) above.

Having reduced points of difference to the above I begged Dr. Wang to think seriously before definitely rejecting these proposed alterations; if he maintained his attitude there would be a delay which might be fatal and the whole of the agreement might again be wrecked. He finally said he was prepared to resume discussions on Tuesday⁵ next after he had had time to consult his colleagues of the Government and to consider the questions of:

1. Eliminating 'declaration' wording in Article 11 of the Convention.
2. English as prevailing text. Meanwhile he hoped you could sympathetically consider attitude he was bound to adopt regarding Article 6 of the agreement.

I am not at all sure that if we agree to (? old)⁶ wording of the latter he will not meet us over the other two points. Have I your authority to propose this bargain to him or alternatively if he himself suggests it to agree to it on your behalf?

Copy to Nanking and Commander-in-Chief.

⁵ April 8.

⁶ The text is here uncertain.

No. 257

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 110 Telegraphic [F 1917/103/10]

FOREIGN OFFICE, *April 7, 1930, 7.15 p.m.*

Your telegram No. 179.¹

I consent to Article 6 of Agreement being worded exactly as Article 20 of Convention except for substitution wherever necessary of 'Agreement' for 'Convention'. It is important that English text should be authoritative and remaining disputed passages should remain unaltered.

¹ No. 255.

No. 258

Sir M. Lampson (Peking) to Mr. A. Henderson (Received May 2)

No. 452 [F 2422/61/10]

PEKING, *April 11, 1930*

His Majesty's Minister, Peking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs and transmits herewith copy of a record of conversation with Mr. Tong on the 10th April respecting the Feng-Yen programme and communism.

*Record of Conversation between Sir M. Lampson and Mr. Tong**April 10, 1930*

Mr. Y. L. Tong, lately Vice-Minister for Foreign Affairs at Nanking, called this morning. He is, of course, more particularly chief representative of the Feng Yu-hsiang interest.

He told me that he had just returned from Taiyuanfu, and that he had been charged by Marshal Feng and Marshal Yen¹ to see the Legations, and more especially myself, in order to eliminate any misunderstandings regarding their programme which might exist on the part of the foreign Powers. There was an idea abroad amongst the Chinese that their association with Wang Ching-wei was an ominous one and that it meant that the northern movement against Nanking had a Communist tinge. He was specifically charged to assure me that that was not correct. In the first place, Wang Ching-wei was a very different man now to what he had been in the past. He was much more sober and balanced; in the second, there was nothing approaching any idea of communism in the northern programme. What they really wished to do was to purge the present Government of China of various abuses. In the first place, Chiang Kai-shek must go. He was universally detested and a danger. Apart from that, they wished to separate the administration of the country from the political party. The system of domination by the Tang-pu² was wrong, and must be removed.

I said that naturally the internal affairs of China were none of my affair. When I had come to China first there had been a very strong anti-British drive, but I thought Mr. Tong would agree with me that this had not prevented me when the southerners eventually came into power from dealing with them on their merits and on the basis of letting bygones be have-beens and facing facts as they were. Everybody knew that people were apt to modify their views—more especially if they were violent ones—when they found themselves in a position of responsibility. It had been so with the politicians now at Nanking, and I was quite open to believe it might be so with Mr. Wang Ching-wei if so be he ever came into a position of political power. Therefore, I did not think that either he, Mr. Tong, or his friends need have any apprehensions on that score. At the same time, my position was naturally a delicate one, for my Government had officially recognised Nanking as the Government of China; and whilst, therefore, I was prepared, as always, to keep in touch with all and sundry—especially with old friends like himself—I, naturally, must proceed a little delicately. Our policy in China was one of realism. We dealt with the situation as it developed, and the mere fact that we had recognised Nanking did not in the least deter me from seeing the representatives of other parties. After all, the Government of to-day might be a nonentity to-morrow. But naturally we judged people by

¹ These two 'Northern War-Lords' had declared their hostility to the Nanking Government at the beginning of April, 1930. See further No. 278.

² i.e. local branches of the Kuomintang party.

the attitude which they adopted towards foreign interests—anything for a quiet life, in fact, was my motto, by that meaning that foreign interests should not be penalised.

Mr. Tong said he could assure me that there was every desire on the part of the northern combine to protect and leave foreigners in peace.

Discussing the actual campaign, he said there was unlikely to be any serious fighting for another fortnight. Marshal Feng was now in supreme military command, whilst Marshal Yen dealt with the political side of it, and the latter also supplied the former with arms, munitions and money. General Han Fu-chu was practically eliminated, but it was true he still had a few thousand men left. In his case it was simply a question of the highest bidder, and Chiang Kai-shek had outbidden the northern combine. Shi Yu-shan, on the other hand, was quite dependably pro-North. As to Chen Tiao-yuan in Shantung, he was definitely pro-Nanking. That was now firmly established. As to where the actual fighting would take place, that was not quite clear. Marshal Feng was at present at Chengchow. The idea was to advance on one of two tracks¹; either eastward along the Lunghai, or alternatively southward down the Kinhan. The one which would be chosen would be a matter for consideration when the moment came, but anyway that was their general scheme of campaign.

I told Mr. Tong that I was leaving to-morrow for Nanking in order to get on with the Weihaiwei and indemnity questions. I hoped, however, to be back very shortly. Meantime, Mr. Aveling would be in charge of the Legation, and I hoped that he would keep in touch with him if he had any message to convey to me. Mr. Tong said that he would be very glad to do this, and he left me his address for the purpose.

MILES W. LAMPSON

³ This word was amended on the file copy to read 'flanks'.

No. 259

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 1 Tour: Telegraphic [F 1821/1/10]

FOREIGN OFFICE, *April 15, 1930, 7.30 p.m.*

Your telegram No. 168¹ and previous telegrams.

1. I agree with view expressed in your telegram No. 113² under reference that no attempt should be made to negotiate commercial treaty simultaneously with jurisdiction treaty and that latter should deal as proposed with questions of residence, ownership of land etc. and that British shipping should not be excluded from any transfer of jurisdiction.

2. I agree generally with proposals in agreed draft scheme subject to the following observations.

¹ No. 252.

² No. 240.

3. The scheme represents a departure from the plan hitherto contemplated, namely, transfer of jurisdiction subject by subject as satisfactory codes are promulgated and put into operation. The process of surrender is only gradual and progressive in so far as a period during which Chinese law will be administered in British Courts intervenes before complete transfer of jurisdiction to Chinese Courts. This intervening period may prove to be brief as the Chinese may be able to show in a short time that a complete set of satisfactory codes have been promulgated and put into operation and thus make out, on paper, a strong case for immediate transfer of jurisdiction. I realise however that developments since my telegram No. 380³ of November 2 was drafted may have rendered the adoption of a scheme on the lines of the present agreed draft inevitable and that it may be wiser to aim at securing satisfactory safeguards rather than insist on a prolonged period of progressive transfer of jurisdiction.

4. I presume that you have consulted the Judge of the Supreme Court as to the practicability of applying Chinese law in Consular Courts. In any case it would not appear to be possible to apply Chinese laws of procedure. Our liberty of action should therefore be reserved by inserting after 'regulations' in the last sentence of the preamble 'not including, however, Chinese laws of procedure, whether civil or criminal'.

5. I agree that no specific reservation should be made in regard to leased territories. As regards article 9 I doubt whether any Chinese Government would grant a charter for Greater Shanghai, such as appears to be contemplated by Judge Feetham, or consent to exclusion of such an area from jurisdiction treaty. Mr. Brenan's recommendations⁴ are based on the view that extraterritorial privileges can be maintained in Shanghai by force. For criticism of similar view expressed by Mr. MacMurray see my telegram No. 577 to Washington⁵ of November 14. Privileges enjoyed with the consent of the Chinese Government may be of great value, but if they can only be maintained by the use or threat of force they become a source of danger rather than a benefit. His Majesty's Government are prepared to use force in defence of life and property, but not for the purpose of maintaining a privilege. It is of course difficult for the local community to appreciate the reasons for this attitude, but it remains a fact from which there is no escape. Nevertheless, I agree that every effort should be made not to embarrass Judge Feetham. In principle Tientsin, Hankow and possibly also Canton should be treated in the same manner as Shanghai, while from the tactical point of view there seems no harm in asking for more than we are likely to get. I suggest, therefore, the addition of the following sentence to article 9:—

'Similar areas in accordance with the local conditions at each port will be reserved at Tientsin, Hankow and Canton within which this agreement will not be applicable.'

6. As regards criminal jurisdiction, I suggest that police courts should have powers of imprisonment up to ten days but only in default of payment of fine (article 1). In article 5 the provision allowing a convicted person to

³ No. 116.

⁴ See No. 228.

⁵ No. 126.

redeem imprisonment of not more than one year by pecuniary fine might lead to sentences being increased to more than one year in cases where imprisonment is the only adequate penalty. The relevant clause in article 5 might therefore be amended to read 'sentence to imprisonment for any offence for which the maximum period of imprisonment is 12 months or less will be permitted etc.'

7. As regards taxation I suggest that article 3 should be amended to read:—
'Such non-discriminatory Chinese tax as is actually paid by all Chinese citizens and is authorised, etc.'

A clause might also be added providing that 'Tax agreements entered into with British merchants, firms and companies will be duly respected'.

8. Paragraphs 2 and 3 of article 16 of the Treaty of Lausanne were inserted as no Consular Courts were to continue to exist in Turkey. They will not be necessary in the present draft scheme, but the continued existence of Consular Courts for both evoked cases and personal status cases should be made clear by amending the last sentence of article 4 to read:—

'For dealing with evoked cases as well as personal status cases under article 6, the jurisdiction etc.'

I presume that you have considered the point whether, in the draft scheme, Consular Courts should also retain jurisdiction in cases between British subjects. Such cases seem to be tacitly abandoned but I am not sure that this is intended.

9. If the draft is eventually presented to Chinese Government it will no doubt be provided in some form that Chinese qualification will not be necessary for foreign lawyers appearing before Chinese Courts.

10. Please discuss these suggestions with your colleagues. It will however be necessary to wait until we learn the views of the State Department before any decision can be taken as to resuming negotiations with the Chinese Government.

Repeat to Tokyo and Peking. Repeated by bag to Washington.

No. 260

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 18, 1.0 p.m.)

No. 109 Tour: Telegraphic [F 2152/103/10]

NANKING, April 18, 1930, 5.45 p.m.

My telegram No. 106.¹

Weihaiwei.

Minister for Foreign Affairs agrees to sign both Convention and Agreement in English only and we will sign tonight.

I have consented to initial a minute that signature will 'be followed by a certified Chinese translation initialled after signature' and that signature in English only 'should not be taken as a precedent'.

¹ No. 261.

I have informed Minister for Foreign Affairs that I shall put in written *caveat* in accordance with your telegram No. 100,² that actual rendition will be dependent upon Central Government being in control of Shantung.

Repeated to Peking, Commander-in-Chief and Weihaiwei.

² No. 250.

No. 261

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 19, 10.0 a.m.)

No. 106 Tour: Telegraphic [F 2156/103/10]

NANKING, April 19, 1930, 9.30 a.m.

I saw Minister for Foreign Affairs shortly after my arrival on April 17 and had general discussion on outstanding topics.

Extraterritoriality was not even mentioned.

Most important subject was Weihaiwei when he explained his difficulties in accepting English as ruling text. I replied that was unfortunate for my instructions were explicit and I was not prepared to sign on any other terms. It was for China to choose but to me it seemed ridiculous that she should lose Weihaiwei on so petty a point. He agreed and after trying various alternative ways out all of which I refused to consider said that he personally shared my view in favour of English text and would once more put the point before his colleagues. I made it perfectly plain that I would not sign unless I got my point and that it was a matter of indifference to me whether I signed or not though it was a pity he and I should have thrown away such good work on this problem.

Later in the day Wang Ching-hui¹ called and I made my attitude equally clear to him as to the Minister for Foreign Affairs. I told him that in present state of political uncertainty there was growing public opinion at home that the moment was most inopportune to rendite Weihaiwei or indeed conclude any agreement with Nanking. Nonetheless we were quite prepared to go ahead and for that purpose I had now come down. But if Nanking did not want Weihaiwei no one on our side would be unduly distressed.

Returning to conversation with the Minister for Foreign Affairs I drew from him official expression of regret for incident outside Consulate on April 5² and undertaking that on no account should any recurrence of such a disgraceful manifestation be allowed. He let drop that Mayor who was primarily responsible had since been changed. Whether as a result of what I said I know not but in addition to thirty special police on duty round this compound last night a body of two hundred was in special reserve at hand in case of need.

¹ This name should read here and in No. 262 'Wang Chung-hui', i.e. the President of the Judicial Yuan.

² There was a hostile demonstration outside H.M. Consulate-General at Nanking, which arose from labour trouble at the factory of the International Export Company.

Both Minister for Foreign Affairs and Wang Ching-hui asked about indemnity. I explained the position and said that on April 3 I had been promised instructions in ten days or so. I still awaited them.

To both Minister for Foreign Affairs and Wang Ching-hui I expressed great personal regret at most unwise rejection by Shanghai ratepayers of resolution raising Chinese Counsellors to five (see Shanghai telegram No. 70³). Neither of them seemed particularly perturbed Minister for Foreign Affairs merely remarking that it was unfortunate that Chinese had already elected their five men. Wang Ching-hui agreed that what was now important was that we should all keep calm and not allow ourselves to be rushed into any foolish action on either side.

Repeated to Peking, Shanghai and Commander-in-Chief.

³ Not printed.

No. 262

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 19, 12.30 p.m.)

No. 107 Tour: Telegraphic [F 2157/1/10]

NANKING, April 19, 1930, 2.20 p.m.

My telegram No. 106¹ regarding extraterritoriality [*sic*].

I told Dr. Wang Ching-hui [*sic*] that as a result of January and February discussions here I had crystal[l]ized the whole matter with a long draft now before you. It was obvious this would require prolonged consideration probably in consultation with other interested Governments and it was a foregone conclusion that I should not be able to put it to the Chinese Government during the present visit.

2. He said that he perfectly understood: it was an intricate matter and could not be hurried over. But could I give him any idea of its contents.

3. I said no, beyond fundamental assumption that if criminal jurisdiction were surrendered co-judges plus evocation would be *sine qua non* and elaborated by arguments why this must be so.

4. He replied any safeguards but not co-judges. I explained that I was unshakeable on this and so would His Majesty's Government certainly be: but this pill would be so gilded that co-judges would not probably be recognized as such even by experts.

5. He left saying Minister for Foreign Affairs' 'hypothetical question' had been and still was only his personal suggestion: that not one of his colleagues had endorsed it nor could it possibly be adopted.

6. I ended interview by saying that was unfortunate for their [*sic*] progress would be barred from the outset. Any way he had better wait till we were

¹ No. 261.

able to put in our long draft scheme now before His Majesty's Government when he could see whether co-judges' tracks were not sufficiently covered up to save Chinese susceptibilities.

Repeated to Peking.

No. 263

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 19, 10.0 a.m.)

No. 111 Tour: Telegraphic [F 2160/1/10]

NANKING, April 19, 1930, 2.20 p.m.

My telegram No. 107.¹

In response to enquiry by Minister for Foreign Affairs I have explained present position and that I do not anticipate being able to put in our scheme during my present visit.

He made no comment.

Repeated to Peking.

¹ No. 262.

No. 264

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 19, 2.30 p.m.)

No. 112 Tour: Telegraphic [F 2161/103/10]

NANKING, April 19, 1930, 2.30 p.m.

Weihaiwei.

Following documents were signed last night:

1. Rendition Convention.¹
2. Naval Facilities Agreement.¹
3. Note from me to Minister for Foreign Affairs making reservation that renditions would depend on National Government being in control of Shantung.
4. Letter from Minister for Foreign Affairs giving assurances regarding British medical officer on mainland, Chinese police force and electric light company.
5. My reply taking note of 4.
6. Letter from Minister for Foreign Affairs disclaiming intention of charging rent for naval facilities.
7. My reply taking note of 6.
8. Letter to Minister for Foreign Affairs regarding naval vessels of third nationality.

¹ Printed in Cmd. 3741 of 1930.

9. Minister for Foreign Affairs' reply taking note of 8.

10. Letter from Minister for Foreign Affairs regarding engagement of British naval medical officer on Liukungtao.

11. My reply taking note of 10.

12. Agreed minute (initialled not signed) about signature in English only.

Texts of documents 3 and 12 are contained in my telegrams Nos. 113² and 114³ respectively.

Documents 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 are not an integral part of Convention and Agreement and are not for publication at present.

Originals of Convention and Agreement go by bag but certified copies of both documents together with supplementary notes etc., will be sent as soon as possible via Siberia.

What are your views regarding publication of Convention and Agreement? Must it await receipt in England of certified copies of documents or can it take place earlier if necessary? Chinese have so far said nothing but are possibly taking it for granted that publication will take place soon. I am asking Ministry of Foreign Affairs today to publish nothing beyond fact that Convention and Agreement have been concluded until I have discussed question of simultaneous publication of texts with Dr. Wang who left for Shanghai immediately after signature last night and does not return until April 22.

Repeated to Peking, Commander-in-Chief, Weihaiwei.

² No. 265.

³ Not printed.

No. 265

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 19, 12.30 p.m.)

No. 113 Tour: Telegraphic [F 2162/103/10]

NANKING, April 19, 1930, 2.30 p.m.

My telegram No. 112.¹

Weihaiwei.

Following is text of document 3. Begins.

'With reference to the Convention for Rendition of Weihaiwei to be concluded between us today, I have the honour to recall to Your Excellency that at our interview of February 10 last,² when we were discussing terms of the said convention, I read to Your Excellency the text of a telegram³ which I had received from His Majesty's Principal Secretary of State in the following words:

"You shall make it clear that His Majesty's Government would not be bound to carry out rendition if the Chinese Government were, when the time comes, not in control of Shangtung [*sic*]; in that case rendition would have to be deferred until their control was established [*sic*]."

¹ No. 264.

² See No. 220.

³ See No. 216.

'And that Your Excellency replied that you took due note of this declaration.

'Under instructions from His Majesty's Principal Secretary of State I have the honour to place the above reservation on record for Your Excellency's information.

'I avail etc.' Ends.

No. 266

*Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 21, 5.0 p.m.)*

No. 118 Tour: Telegraphic [F 2171/61/10]

NANKING, April 21, 1930, 5.40 p.m.

I dined with Chiang on April 19. He seemed in excellent spirits and as usual was most friendly. In reply to my enquiries he gave me the following information.

He professed complete confidence in being able to deal with anti-Nanking movement in the North. His troops would remain strictly on the defensive, thus placing responsibility for outbreak of hostilities and renewal of civil war on his opponents. There was nothing doing for the moment nor were there so far any signs of a serious attack by the North. Yen and Feng were far from being united and the former especially did not seem to want to fight. He scouted reports (which I mentioned as being current in the North) that Central Government forces would withdraw from Tsinanfu and referred to them as propaganda spread by Yen who would like to see the Kuominchun attack Shantung. Chen Tiao-yuan and Han Fu-chu were loyal though he admitted the former was more reliable than the latter. He hoped trouble would be over in three to six months time and with civil war at an end Government would soon suppress brigandage and communism. To show how little perturbed he had been by the events in the North he referred to his recent trip to Chekiang. He was now off in a day or two on a short visit to Hankow.

I mentioned the matter of Shanghai, and Chinese Councillors and expressed my regret at what had occurred and my opinion that the important point now was to keep things quiet and avoid agitation on either side until we could get situation set right. He said Dr. Wang had spoken on the subject the night before; he entirely agreed with what I had said and added that the British and Chinese communities at Shanghai were composed of commercial men who should be able to pull together in their common interest.

Repeated to Peking and Shanghai.

No. 267

Sir R. Lindsay (Washington) to Mr. A. Henderson
(Received April 24, 9.0 a.m.)

No. 174 Telegraphic [F 2251/1/10]

WASHINGTON, April 23, 1930, 1.42 p.m.

My telegram No. 172¹ last sentence.

Hornbeck explained that this means that text of revised draft is still being considered in the Department and is subject to possible further revision; also that in the absence of the Secretary of State the Far Eastern Division cannot commit him to approve 'united front' action to the extent implied by collaboration in reducing and revising joint draft and by the Far East Division's suggestions for a future agreed plan.

As regards first paragraph of Hornbeck's letter contained in my telegram under reference (tendency of Dr. Wang to retire from his former offer to trade co-judges for criminal jurisdiction) Mr. Campbell had not communicated to the State Department substance of Sir M. Lampson's telegram to you No. 88² since it was marked secret and in view of the second sentence of paragraph 3 of your telegram No. 49 to Sir M. Lampson³ substance of which he did communicate in the second paragraph on page 8 of memorandum enclosed in my despatch No. 454⁴ of March 19.

In telephonic conversation this morning in which Dr. Hornbeck informed Mr. Campbell of despatch of revised draft to the United States Embassy in London he took the occasion once again to say he wished 'we could discuss this face to face in London'.

¹ No. 269.

² No. 230.

³ No. 234.

⁴ Not printed. For the memorandum see No. 243, note 2.

No. 268

Sir R. Lindsay (Washington) to Mr. A. Henderson
(Received April 24, 9.0 a.m.)

No. 171 Telegraphic [F 2249/1/10]

WASHINGTON, April 23, 1930, 6.0 p.m.

Your despatch No. 486¹ of April 1.

The Lampson-Johnson agreement on extraterritoriality.

State Department have sent me copy of revised draft embodying amendments made by them particularly in regard to provisional retention of criminal jurisdiction.²

¹ This formal despatch transmitted to Washington a copy of the Lampson-Johnson draft agreement: see No. 248.

² This draft is printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 426-34.

Text of revised draft has been telegraphed in full to Johnson with instructions to discuss it with Sir M. Lampson and telegraph any comments or suggestions which he may wish to make. It is also being telegraphed to the United States Embassy in London for communication to you.

My immediately following telegram³ contains principal portions of covering letter from Dr. Hornbeck to Mr. Campbell which he requests you to communicate to the United States Embassy in London. Letter concludes by stating that any comments or suggestions of the Foreign Office will be welcome and that it is probable that the State Department's conversation[s] with Dr. Wu will be resumed at an early date.

³ No. 269.

No. 269

Sir R. Lindsay (Washington) to Mr. A. Henderson

(Received April 24, 9.0 a.m.)

No. 172 Telegraphic [F 2250/1/10]

WASHINGTON, April 23, 1930, 6.0 p.m.

My immediately preceding telegram.¹

Text begins.

'You will note that this draft makes provision both for retention of criminal jurisdiction and for installation of advisers who shall in certain cases act as co-judges. You will remember that in reply to enquiries made by British Foreign Office through British Embassy, Washington, and American Embassy, London, the Department expressed itself as being of opinion that both these measures were desirable; and that Department stated it would be willing to ask for both although it believed that Chinese would be very reluctant to accede to the latter; also that the Department could not at the time state which of the two it would be willing first if necessary to give up. Department notes that in the Lampson-Johnson draft now under consideration no provision is made for retention of criminal jurisdiction. Department has reviewed account given in the various memoranda relating to Sir M. Lampson's conversations with Dr. Wang in regard to this feature of the problem. Department is now informed in a telegram of April 3 from United States Minister, Peking, that Sir M. Lampson has stated that while Dr. Wang had indicated a willingness to accept proviso for co-judges if British Government would give up criminal jurisdiction, there was more recent evidence that Wang might retire from that position. Department entertains doubt whether it will be found possible to induce Chinese seriously to consider proposal to provide for evocation and Department apprehends that Chinese . . .² will be encountered in reference to several of the other proposed safeguards.

¹ No. 268.

² The text is here uncertain.

'Because of these circumstances opinion is held in Department that plan next put forward for discussion with Chinese might advisedly contain provision for retention of criminal jurisdiction and provision for foreign co-judges and provision for right of evocation. It is of course probable that agreement upon all three of these safeguards will not be achieved in face of vigorous and persistent opposition on the part of Chinese but in order that there may be established a basis for discussing problem of safeguards upon its merits, view is held in Department that it will be advisable at the present stage to include all three safeguards in the draft.'

Text ends.

In submitting draft herewith enclosed, I must point out that Department is not committed to this text or by this action.³

³ This paragraph should have been included in the quotation: see No. 267.

No. 270

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 24, 9.30 a.m.)

No. 123 Tour: Telegraphic [F 2236/103/10]

NANKING, April 24, 1930, 12.35 p.m.

My telegram No. 112,¹ last paragraph.

I discussed question of publication on April 21 with the Minister for Foreign Affairs and told him that I had requested your instructions. I explained that there might be some delay as His Majesty's Government might be unable to agree to publication before papers had been laid in Parliament. Minister for Foreign Affairs agreed to stave off press correspondents for the time being by telling them that the question of synchronising publication in China and Great Britain was under consideration.

2. Last night however I received message from the Minister for Foreign Affairs that he was very anxious to publish as soon as possible in view of the danger of ill-disposed people spreading rumours about contents of agreements to the prejudice of both Governments. He hoped therefore that I would be able to get His Majesty's Government to agree to immediate publication as soon as Chinese texts which are now being worked on have been agreed upon. May I have your views urgently?

Repeated to Peking and Weihaiwei.

¹ No. 264.

No. 271

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 24, 9.30 a.m.)

No. 124 Tour: Telegraphic [F 2237/103/10]

NANKING, April 24, 1930, 12.35 p.m.

My telegram No. 112.¹

On April 21 I suggested to the Minister for Foreign Affairs that Chinese Government should send special representative to Weihaiwei to discuss details of handing over with Commissioner. Dr. Wang said that Chinese Government would probably send two men one representing Chinese Admiralty; names would be communicated later.

I told the Minister for Foreign Affairs that on my way here Commissioner had expressed the hope that territory would not be split up as formerly into two districts. Minister for Foreign Affairs said that Chinese Government had considered this and were thinking of avoiding division by creating special area which it had been suggested should be directly under the National Government and not under Shantung Provincial Authorities. Under this suggestion the Waichiaopu would control the area unless and until it was reserved as naval base. Nothing was however yet decided.

I mentioned also desirability of protecting the inhabitants of the territory after rendition against general lawlessness now prevalent across the border (Weihaiwei despatch No. 14 to me² of April 7 copied to Colonial Office). Minister for Foreign Affairs promised to take this up with the President. He thought the precedent of Tsingtao would be followed and a special force of gendarmes sent to Weihaiwei to supplement the local police force until everything was in order.

Repeated to Peking, Commander-in-Chief and Weihaiwei.

¹ No. 264.

² Not printed. This despatch transmitted a petition from a Chinese inhabitant, who claimed to represent the whole population of the Leased Territory, asking His Majesty's Government to postpone retrocession of the territory until the restoration of order and good government in China.

No. 272

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 6 Tour: Telegraphic [F 2236/103/10]

FOREIGN OFFICE, April 25, 1930, 5.25 p.m.

Your telegram No. 123.¹

Text cannot be published here until certified copies are received and can be laid before Parliament. If Chinese are anxious to publish text before then I am willing to agree that they should do so simultaneously with issue of a

¹ No. 270.

summary to the press here. Otherwise a summary might be published simultaneously in both countries. Please discuss with Minister for Foreign Affairs and if simultaneous publication of summary is decided upon telegraph text. In any case report proposed date for publication.

No. 273

Sir M. Lampson (Nanking) to Mr. A. Henderson
No. 89 Tour [F 3672/103/10]

NANKING, April 29, 1930

Sir,

With reference to my despatch Tour series No. 71 of April 22¹ forwarding copies of the Convention for the Rendition of Weihaiwei and the Agreement for the loan of Naval Facilities on the island of Liukungtao, I have the honour to submit the following report on the course of the negotiations leading up to the conclusion of these agreements on April 18 since the date of my despatch dated Nanking, June 28, 1929.²

2. It will be recalled that when I left Nanking in June last the negotiations had again reached a complete deadlock owing to the sudden *volte-face* made by the Chinese Government in insisting, on the pretext that they desired immediately to develop Weihaiwei as a Chinese naval base, on the cutting down of the period of the loan of facilities to His Majesty's Navy to three years without renewal and the closing of the Port Edward area to foreign residence and trade without provision for compensation for the vested foreign interests there.

3. The position resulting from the new Chinese demands was thereupon considered by His Majesty's Government, but no further discussions took place with the Chinese until my next visit to Nanking, which was delayed until January owing to the renewed outbreak of civil war in the autumn of 1929. This interval of more than six months was probably helpful as giving the Chinese Government time to consider their future course of action after their unsuccessful attempt to rush His Majesty's Government into unconditional rendition.

4. The negotiations were eventually resumed on January 11, when I explained to the Minister for Foreign Affairs the position under the instructions which I had since received, namely, that the question of foreign property rights on the mainland could be settled, either by protecting them on the lines of the 1924 draft agreement, or (though this seemed a retrograde and unnecessary step) by buying them out at fair compensation, but that the question of the loan of facilities on Liukungtao to His Majesty's Navy was vital and that His Majesty's Government were obliged to insist on the provisions of the 1924 draft in regard thereto.

¹ Not printed.

² No. 60.

5. A lengthy discussion on the loan of naval facilities ensued, Dr. Wang restating all the old arguments about China granting reasonable facilities as a matter of course, as in the case of the American Navy, when their ships visited Chefoo. I insisted, however, it was useless discussing the matter on these lines, and the conversation then turned to the period of the loan of naval facilities. Dr. Wang argued that ten years was a long time, that if the draft agreement of 1924 had been signed the loan would only have had four more years to run, and that a loan for as long a period as ten years was unpalatable to the Chinese people as recognising the maintenance of the British fleet in Chinese waters for that length of time. I at once interposed at this point with the remark that the maintenance of the British fleet in the Far East was a fact, whether palatable or not, and that Dr. Wang must surely realise that it was a matter of Imperial strategy without special reference to China, and I insisted that I could not budge on ten years and supported my arguments by pointing out the unique opportunities which would be afforded to the Chinese Navy for training in co-operation with His Majesty's Ships. Eventually Dr. Wang worked up from three years, through various terms such as five years and five years with one renewal, to the following proposal, which we agreed to recommend to our respective Governments, namely, that Article 3 of the 1924 draft, providing for the loan of naval facilities for ten years with option of renewal by agreement between the two Governments, and the annexed list of facilities themselves, should remain unchanged, but that the attached exchange of Notes, providing that China would not refuse renewal without 'reasonable cause' should be dropped. We also agreed to recommend to our Governments that the provisions of the 1924 draft concerning foreign property rights and other matters on the mainland should be revised in the sense of cutting out unnecessary detail, and that a covering clause should be added providing that foreign property owners would be bought out at fair compensation in the event of the Chinese Government deciding later on to close the port and reserve it as a naval base.

6. We resumed these informal discussions (all our decisions being subject to the approval of our respective Governments) two days later, when the Minister for Foreign Affairs made the further proposal that the 1924 draft should be split into two agreements, one covering the terms of rendition, the transfer of public properties, and the safeguarding of private property rights, etcetera, and the other governing the terms of the loan of naval facilities. I agreed to recommend this to His Majesty's Government as a reasonable proposal provided it was understood that the naval agreement comprised all the naval stipulations of the 1924 draft. We then ran through the articles of the old draft, preparatory to a detailed examination by our respective experts, Mr. Teichman and Mr. Hsu Mo, with a view to seeing how much could be deleted as superfluous. In the course of this discussion I was able to make a considerable advance in certain important respects on the terms of 1924. Thus the Minister for Foreign Affairs accepted in principle the issue of Chinese deeds of perpetual lease, on the Chinkiang precedent, to foreign property owners in exchange for their British deeds in the place of the thirty

year leases provided for in the 1924 settlement. (It will be recalled that at the time of the previous negotiations the Chinese had been adamant on this point on the grounds that Weihaiwei, like Tsingtao, would after rendition be a 'self-opened port' and that they could not grant to us what they had refused to give the Japanese in the case of Tsingtao.) The question of the compensation of foreign property rights is also, on paper, adequately provided for. In regard to the controversial article regarding the rights of the foreign residents to be consulted in municipal matters directly affecting their interests, the Minister for Foreign Affairs agreed to accept the Tsingtao precedent. The naval clauses were in principle accepted without change, subject to the insertion of some provision (which the Commander-in-Chief had already agreed to in principle as reasonable) that a foreign warship of another nationality already berthed in the anchorage would not necessarily have to withdraw to make way for a newly arrived British ship. Certain additional facilities beyond those provided for in the 1924 draft, which were specially desired by the Commander-in-Chief, were also agreed to. In regard to the vexed question of the ruling text, I accepted, in accordance with the discretionary authority given me in Foreign Office despatch No. 304 of 1929,³ the omission of any reference to a ruling text provided agreement could be reached on the Chinese translation. We then suspended our discussions pending the receipt of the views and instructions of His Majesty's Government on the new proposals.

7. Three weeks later, on February 7 I received the instructions contained in your telegrams of February 4 [5]⁴ informing me that His Majesty's Government accepted in principle the proposed basis of agreement, but drawing attention to certain points which required to be made clear in any settlement that might be reached, including more especially the terms of the period of the loan of naval facilities and its renewal. I was also instructed to make it clear that His Majesty's Government would not be bound to carry out rendition if the Chinese Government were, when the time came, not in control of Shantung.

8. While awaiting the receipt of these instructions Mr. Teichman had prepared two draft agreements in accordance with the understanding reached with the Minister for Foreign Affairs on January 11 and 13, incorporating also certain minor improvements in substance and wording, and when I resumed the negotiations on February 10 I was able to hand to Dr. Wang these two drafts, the one dealing with the rendition of the territory and the other covering the loan of naval facilities. We then proceeded to read through the drafts Article by Article, again as a preliminary survey preparatory to a detailed joint examination by our respective experts. The Minister for Foreign Affairs made no special comment on the Articles of the draft agreements, beyond asking for explanations on certain points, but when we came to the exchange of notes attached to the first Article of the naval agreement (corresponding to Article 23 of the 1924 draft), which I had re-inserted in accordance with the general sense of your instructions (namely

³ Not printed.

⁴ No. 216.

to make a final attempt to secure this measure of support, even if it were a slender one, to the terms of the Article), he declined absolutely to consider them, pointing out that it was quite impossible for his Government to accept the reinsertion of these notes, which, he maintained, had hitherto been the main stumbling block in the negotiations and which, if insisted on, must again wreck all prospect of a settlement. After some further discussion, in the course of which I pressed the point as hard as I could and explained the anxiety of His Majesty's Government in regard to the additional expense to which they would be put to provide new facilities elsewhere in the event of the loan not being renewed, I persuaded Dr. Wang to consider, and eventually to accept, the alteration in the text of the Article itself as suggested in your telegram, namely, the amended sentence in question to read 'With the option of renewal on the same terms by agreement or on such other terms as may be agreed upon between the two Governments', which at least affords greater elasticity when the time for negotiations for renewal arrives. Various other minor points were then discussed and disposed of and it was agreed that Mr. Teichman and Mr. Hsu Mo should meet and endeavour to produce an agreed draft for discussion at our next meeting. I also took the opportunity of raising with the Minister for Foreign Affairs the question of the control by the Chinese Government of the province of Shantung when the time for rendition arrived, referring to the recent revolt of the notorious General Chang Tsung-chang and explaining that we should feel morally bound not to hand over the Chinese inhabitants of the territory to any régime of that kind; and I proceeded to read to him an extract from your telegram instructing me to make it clear 'that His Majesty's Government would not be bound to carry out rendition if the Chinese Government were, when the time came, not in control of Shantung'; and that 'in that case rendition would have to be deferred until their control was established'. Dr. Wang readily agreed that this was a reasonable reservation, of which he took due note, but he declined to incorporate it in a formal exchange of Notes as involving too great a loss of face for his Government. We also discussed the date of actual rendition (being that of the exchange of ratifications) and I was able after some argument to induce him to accept October 1, 1930, thus covering the point contained in my instructions regarding the retention of our military convalescent depot in the territory during the hot weather of the current year.

9. On February 12 Mr. Teichman and Mr. Hsu Mo met and went over the drafts in detail, with the result that, after considerable argument, mostly on points which had already been threshed out and disposed of in the discussions of 1923-4, and the addition of some minor alterations mainly of a verbal nature, they were able to produce agreed texts of the two draft agreements which were accepted and initialled on the following day by myself and the Minister for Foreign Affairs *ad referendum* to our respective Governments. The only alteration of substance made at this stage was the conversion of the naval agreement from a 'Convention' into an 'Agreement', and the deletion of its preamble, the Chinese contending that the main instrument should be a 'Convention' for the rendition of Weihaiwei, accompanied

by a subsidiary 'Agreement' covering the terms of the loan of naval facilities. I saw no objection to meeting the wishes of the Minister for Foreign Affairs in this respect provided it was understood that both instruments were equally valid. These initialled drafts were forwarded for the approval of His Majesty's Government in my despatch dated Nanking, February 13.⁵

10. A few days later Mr. Teichman took up with Mr. Hsu Mo the question of the maps and plans attached to the Agreement, with the result that, after the usual discussion, the Chinese, who were provided with various versions of the maps representing different stages of the previous negotiations at Peking without knowing very much about them, eventually accepted our copies of the 1924 maps without alterations except for the legends. Under the redraft of the settlement in the form of two agreements, one of the mainland maps (showing the Port Edward area to be opened to foreign residence and trade) was no longer required as the Article in question (Article 16 of the Convention) had been reworded in broader terms and provided that the area to be opened to foreigners would include all territory in which foreign property owners were already located.

11. On March 29 I received your telegram⁶ authorising me to sign the Convention and Agreement subject to certain formal alterations and on the understanding that, if the Chinese Government were not in control of Shantung at the time when actual rendition was due, His Majesty's Government would not be bound to carry it out. The most important of these alterations were, firstly, the insertion in Article 20 (the final Article) of the Rendition Convention of a clause providing that the English text should be authoritative, and, secondly, the substitution for Article 6 (the final Article) of the Naval Agreement of a clause providing that this Agreement should form an integral part of the Rendition Convention.

12. On April 1 I telegraphed to Mr. Ingram, Counsellor to His Majesty's Legation and my personal representative at Nanking, instructing him to present the list of proposed alterations to the Minister for Foreign Affairs and, speaking formally on my behalf, to endeavour to secure their acceptance. On April 4 Mr. Ingram telegraphed in reply⁷ that, while he had had considerable argument over various minor points in the list of amendments, the issue had been finally reduced to the question of the authoritative text and the Agreement forming part of the Convention. On the former point the Minister for Foreign Affairs had argued that this had proved a stumbling block in all the past negotiations on the subject and that (as I was already aware) legislation had recently been passed laying down that any 'ruling text' for Treaties or Agreements made by China with foreign countries and requiring ratification must be in a third language; Mr. Ingram had used every conceivable argument in reply but had failed to move him, except finally with the tentative and person[al] suggestion, which Dr. Wang had agreed to consider, that the documents should be signed only in English without a Chinese text. On the latter point, the Agreement forming an integral part of the Convention, Dr. Wang was emphatic in stating that there was no

⁵ No. 222.

⁶ No. 250.

⁷ See No. 256.

chance whatever of his Government agreeing to this amendment which would stultify the whole idea at the back of the present form which the documents took, namely, that the Convention dealt with matters of a fixed and permanent nature while the Agreement provided for certain transient arrangements.

13. On April 9 I received your telegram⁸ stating that you were able to consent to Article 6 of the Agreement being worded exactly the same as Article 20 of the Convention (thus dropping the point that the one should form an integral part of the other) and adding that it was important that the English text should be authoritative and that the remaining disputed passages should remain unaltered. It was, however, not possible to word Article 6 of the Agreement exactly as Article 20 of the Convention, since there was no preamble or preliminary mention of Plenipotentiaries in the former; and I accordingly transmitted to Mr. Ingram a redraft of Article 6 of the Agreement in the lines desired and directed him to inform the Minister of Foreign Affairs that if this and all the other amendments were accepted by him I should be prepared to sign the Convention and the Agreement on my arrival in Nanking a week later, adding that he should make it plain to Dr. Wang that unless he agreed a deadlock would again be created. This telegram crossed one from Mr. Ingram reporting that the Minister for Foreign Affairs had definitely accepted all the minor amendments and proposed, in regard to the difficulty over the authoritative text, a formula, based on the Kellogg pact, providing that both English and Chinese texts should have equal force (his argument being that in the event of disputes having to be referred to arbitration only the English text could be utilised either at the Hague or Geneva), and that the difficulty over Article 6 of the Agreement should be met by a formula providing that the Agreement would come into force on the same day as the Convention. As this telegram had crossed my further instructions to Mr. Ingram I took no action on it and postponed further consideration of the question pending my arrival in Nanking.

14. When I reached the Capital on April 17 I found that, thanks to Mr. Ingram's skilful handling of the situation, the only outstanding point was that of the authoritative English text, on which it had been found impossible to move the Minister for Foreign Affairs. I saw Dr. Wang on the afternoon of the day of my arrival and discussed with him, amongst other matters, the deadlock created in the Weihaiwei negotiations on the language question. He said that, much to his regret, he was absolutely unable to give way more on this point, which he had already argued many times with the departments concerned, and which had only the day before been before the highest competent Committee of the Government, who had given him definite instructions against agreeing to the English as the ruling text. I used every possible argument, pointing out (as Mr. Ingram had also done) the absurdity of China refusing the rendition of Weihaiwei on account of this difficulty about a ruling text, and concluded by remarking that from my most recent instructions it was clear that I must get English as the ruling text, or have only an English text, before I could sign. I also mentioned that, without seeming

⁸ No. 257.

desirous of being critical, it was common knowledge that the political situation in China at present was extremely involved and that there was naturally a body of sentiment amongst the British public which held that the moment was distinctly inopportune for the surrender of Weihaiwei; but that, nevertheless, I had come to Nanking with my Full Powers in my pocket and I should be ready to sign the agreements at once provided the point about the English text was settled as we wished it; otherwise there was nothing more to be said. For a long while Dr. Wang remained adamant, referring to the definite decision taken in the matter by his Government, and the precedents which were involved, with special reference to certain negotiations with the French Government, in which the French Minister had after a great deal of trouble agreed that the proposed Treaty should be in French and Chinese without any reference to a ruling text. This argument I countered with the observation that there were not many precedents for agreements for the rendition of territory of this nature and that a rendition agreement need not necessarily create a precedent. He then suggested the possibility of inserting some reference in the text of the agreements to the effect that the negotiations had been carried on in English, with the object of conveying the inference that in the event of subsequent disputes the English text should be considered the one containing the true meaning. I refused, however, to consider this suggestion and he finally promised to refer the point once again to his Government. I also took the opportunity of a visit which I paid the same day to Dr. Wang Chung-hui, the Chairman of the Judicial Yuan and one of the most influential members of the Government, as well as a very old personal friend of mine, to impress upon him the folly of permitting this minor question of a ruling text to wreck a settlement at the last moment.

15. On the afternoon of the next day, April 18, the Minister for Foreign Affairs came to see me to tell me that he was authorised to sign in English only, and would like to do so the same evening before leaving for Shanghai by the night train, provided I would initial with him a joint minute to the effect that 'as it was advisable for both Governments to bring at once the negotiations to a successful conclusion, the documents which had already been prepared would have to be signed in English only, to be followed by a certified Chinese translation initialled after signature, but that such an arrangement should not be taken as a precedent in the future'. To this I agreed, after obtaining certain minor alterations in the wording of his formula, and the work of preparing the actual copies of the Convention and Agreement and attached documents for signature was immediately put in hand and completed just in time to enable signature to take place at 11 p.m. the same night. Before signature I handed to Dr. Wang a note formally recording on behalf of His Majesty's Government a reservation in regard to actual rendition being dependent on the Chinese Government exercising control over the province of Shantung, which he accepted without demur. As mentioned in my despatch No. 71 it was impossible to prepare in time the final copies of the maps and plans attached to the Convention and Agreement and these maps and plans were accordingly initialled in draft form.

16. I have recorded the final phases of these negotiations in some detail because they are, I venture to think, instructive as showing that, where we are in the position of having something to give away which the Chinese want and cannot otherwise secure, a strong line is likely to be successful. A further moral to be drawn from these negotiations is that it does not as a rule pay to be in a hurry with the Chinese. As the result of the nine months' delay since the negotiations reached a deadlock last June we have secured nearly everything we set out to get and we have, incidentally, obtained a settlement which is in many respects a more favourable one than the draft agreement of 1924.

17. During the week following signature Mr. Teichman and Mr. Hsu Mo wrestled with the Chinese texts of the Convention and Agreement (it having been mutually agreed that the attached documents, not being for publication, did not require to be translated) with the result that I was able on April 29 to initial with the Minister for Foreign Affairs certified translations, in duplicate, which, I am assured, are as close and accurate as Chinese versions of foreign documents of this nature can reasonably be expected to be. The final copies of the maps and plans were also initialled in duplicate at the same time.

18. I desire to take this opportunity of recording my appreciation of the advice and assistance which I received from His Excellency the Commander-in-Chief, and from His Honour the Commissioner of Weihaiwei, and of their helpful attitude generally, through these intricate and long drawn-out negotiations. And once more I take pleasure in reporting the admirable work put in by Mr. Teichman to whose untiring energy and resource I undoubtedly owe the settlement of this long pending question.

I have, &c.,

MILES W. LAMPSON

No. 274

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 30, 9.30 a.m.)

No. 135 Tour: Telegraphic [F 2350/103/10]

NANKING, April 30, 1930

Your telegram No. 6.¹

I initialled certified Chinese translations of Convention and Agreement with Minister for Foreign Affairs today² and agreed with him that he would issue English and Chinese texts to the press in China on Monday evening for publication in papers on morning of Tuesday May 5, the understanding being that a summary will be published simultaneously by the Foreign Office in London.

Repeated to Peking, Commander-in-Chief and Weihaiwei.

¹ No. 272.

² This telegram was drafted on April 29.

CHAPTER V

General political situation in China: further correspondence regarding the question of extra-territoriality: British proposals of September 11, 1930, to the Chinese Government: Chinese proposals of December 1: the rendition of Weihaiwei (May 2–December 24, 1930)

No. 275

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received May 3, 9.0 a.m.)

No. 148 Tour: Telegraphic [F 2457/1/10]

NANKING, May 2, 1930, 6.40 p.m.

Extraterritoriality.

United States Minister who has just arrived in Nanking communicated to me on April 30 a copy of American re-draft of our agreed plan which was he stated handed to Embassy in Washington on April 23 with request for transmission to Foreign Office.¹ He accompanied this communication with the following explanatory comment. The State Department accepted principle of what they termed 'advice—co-judges' but rather out of consideration for British and Japanese views than because they themselves attached much importance to the point. He himself felt lukewarm on the subject of co-judge[s] of American nationality because he feared they would satisfy neither Chinese nor foreigners and be a target for criticism from both sides. The Department considered however that in opening discussions with Chinese Government provision should be made for both reservation of criminal jurisdiction, co-judges and evocation and they had drafted plan accordingly. In extracts from Department's telegram which he read me there was a reference in above connexion to 'surrender made by Lampson and Foreign Office' but I refrained from pointing out that it was Americans who sold the pass with regard to proposals submitted to Chinese Minister on January 23 in Washington.

2. I communicated to him in turn suggested amendments to the originally agreed plan contained in your telegram of April 15² and we met next day to discuss the document before us. My immediately following telegram³

¹ See No. 268, note 2.

² No. 259.

³ Not printed. This telegram transmitted the agreed comments printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 438–9, beginning 'The principal points of difference . . .'.

contains text of our agreed recommendations resulting from study, namely that, subject to certain comments we should adopt American re-draft and that a final version should now be prepared by Foreign Office and State Department in collaboration. It should be understood *American draft* is basis of our recommendations and that our suggestions refer to alterations to be made therein (and *not in original agreed draft*).

3. We also agreed that it was premature to consult our colleagues at the present stage and that if Japanese Chargé d'Affaires made enquiry during my stay in Shanghai next week I should tell him that the Foreign Office and the State Department had made certain suggestions on draft plan which they were still discussing with one another, and that it would be better if the Japanese Ambassador should approach the Foreign Office in London on the subject when he would receive further information than I can give here.

4. I am doubtful, and I think that United States Minister agrees with me, as to the desirability of holding back on criminal jurisdiction, since with this reservation, exclusion of principal ports, foreign co-judges and rights of evocation together with elaboration of other safeguards (concerning lawyers, language question etc.) contained in American re-draft, the resulting document will certainly be unacceptable to the Chinese and involve a retreat on our part, from the outset, if discussions are to be continued on its basis. But it is all a matter of tactics and there is something to be said for asking for a great deal more at the outset than we expect to get, while in any case the most important thing for the moment is definitely to reach common ground with the Americans and the Japanese. The draft might be made more palatable by insertion of, say in Article 1, some provision that arrangements will be made by mutual agreement for transfer of criminal jurisdiction either after a definite lapse of time or after the experience of the transfer of civil jurisdiction has demonstrated that similar transfer of criminal jurisdiction is justified. This would be in accordance with original British and Japanese plans. But my own opinion is that in the long run we shall make little progress till we agree to give up criminal jurisdiction on the condition that we receive evocation and co-judges in return for a given period.

Repeated to Peking for Tokyo, copies to Hong Kong and Shanghai.

No. 276

Mr. A. Henderson to Sir R. Lindsay (Washington)

No. 241 Telegraphic [F 2458/1/10]

FOREIGN OFFICE, *May 13, 1930, 7.45 p.m.*

Your telegrams Nos. 171¹, 172² and 174³ and Sir M. Lampson's telegrams Nos. 148⁴ and 149⁵.

1. My immediately succeeding telegram⁶ contains the suggested amendments to text of revised draft copy of which was communicated to us by

¹ No. 268.

² No. 269.

³ No. 267.

⁴ No. 275.

⁵ Not printed. See No. 275, note 3.

⁶ No. 277.

United States Embassy on April 25. They are based mainly on the agreed comments of the British and American Ministers. I should be glad to learn whether these amendments prove acceptable to State Department and also what procedure they propose to adopt when final version of draft is ready.

2. I agree generally with Sir M. Lampson's criticism that while it may be good tactics to ask for more than we expect to get, the draft as it now stands, reserving important areas round Shanghai, Tientsin, Hankow and Canton, retaining criminal jurisdiction and claiming co-judges and right of evocation etc. may be somewhat too unpalatable to the Chinese. I should be glad therefore to learn what are the views of the State Department on Sir M. Lampson's proposal to insert in article 1 provisions for future transfer by agreement of criminal jurisdiction and the suggestion that penultimate paragraph of this article dealing with language of courts be deleted. Stipulation in corresponding sentence in penultimate paragraph of article 11 [II] that where foreigners are plaintiffs as [or] complainants files of proceedings must be in English and Chinese is more drastic than practice that obtains under full extraterritorial régime and should, it would seem, also be deleted.

3. I am inclined also to agree with Sir M. Lampson's view that the negotiations are unlikely to proceed on satisfactory lines until we reach the basis of offering to give up criminal jurisdiction in return for evocation and co-judges. In order however to secure the great advantage of a united front I am prepared to take, at any rate in the first instance, the same stand as the United States Government in this matter. There is however a danger that if we do not believe in retaining criminal jurisdiction but do so in order to keep in line with the United States while the United States do not believe in demanding co-judges but do so in order to keep in line with us, the Chinese may be quick to see the weakness of our position with the result that we may both lose both criminal jurisdiction and co-judges. I should be glad if you would bring this aspect of the matter to the attention of the State Department.⁷

Repeated to Peking No. 125 for Tokyo.

⁷ Mr. Campbell carried out these instructions in the form of a letter of May 16 to Dr. Hornbeck. See *Foreign Relations of the United States 1930*, vol. ii, pp. 443-4.

No. 277

Mr. A. Henderson to Sir R. Lindsay (Washington)

No. 242 Telegraphic [F 2458/1/10]

FOREIGN OFFICE, *May 13, 1930, 9.30 p.m.*

My immediately preceding telegram.¹

Following amendments are suggested in State Department's revised draft.

Preamble. In second paragraph after regulations insert 'not including however Chinese laws of procedure whether civil or criminal'.

¹ No. 276.

Article I. First sentence should read 'Except in criminal cases other than the minor offences indicated below and as etc.' See also paragraph 2 of my immediately preceding telegram.

Article II. Delete 'or the accused' in two places. For 'port' read 'place'.

Article III. After 'taxation only as is' insert 'actually paid by all Chinese citizens and is'. Insert a new subsection '(d) That tax agreements entered into with American merchants, firms, partnerships and companies will be duly respected'. Present subsections (d) and (e) will become (e) and (f).

Article V. In first paragraph after 'in which case' insert 'if the act is punishable by a fine of more than ten dollars or by detention or imprisonment.'

I understand that State Department are considering deletion of all but first paragraph of this article. I agree that this might be an improvement and that these and similar safeguards in Peking agreed draft might be reserved for adoption in case we decide to offer surrender of criminal jurisdiction.

Article IX. Add the following sentence 'Similar areas in accordance with the local conditions at each port will be reserved at Tientsin, Hankow and Canton within which this agreement will not be applicable'.

Article X. In paragraph 2 delete 'described in this agreement' and insert 'in which special chambers have been established in accordance with Article 2 of this Agreement'. At end of last paragraph add the following sentence. 'Nothing in this article shall be interpreted, however, as limiting the present authority of the Chinese Maritime Customs with respect to American vessels.'

Article XI. In second sentence after 'firms' insert 'partnerships'.

Repeated to Peking No. 126 for Tokyo.

No. 278

Memorandum by Sir J. Pratt on the Nanking Government and British policy in China

[F 4211/61/10]

FOREIGN OFFICE, May 1930

A proposal is now being put forward to the effect that His Majesty's Government should extend active support to the present Government of China—the Nanking Government—with a view to putting a stop to the Civil War. The object is one which it is most desirable to achieve. The civil wars, which appear to have started up again with great intensity, are the greatest evil, both to China and to British trade with, and British interests in, China, that it is possible to imagine. The only question is whether active support of the Nanking Government by a foreign government is likely to have the desired result.

The Nanking Government began as the Nationalist Government of Canton—a separatist regional government which refused to submit to the authority

of Peking. It was indistinguishable from the Kuomintang or Nationalist Party refounded by Sun Yat Sen in 1924 with a definite set of political principles and a definite programme. Sun Yat Sen imported Russian advisers who gave him much valuable assistance in matters of party organisation, party discipline, the use of propaganda and slogans—all the technique in fact of successful revolutionary tactics, and it was mainly in consequence of this assistance that the Kuomintang armies, starting from Canton in 1926 swept all before them and entered Peking in June 1928. The political principles of the Kuomintang, however, remained untainted by Bolshevism. They were the principles enunciated by Dr. Sun Yat Sen elaborated during years of exile and revolutionary activity. They were founded on ancient Chinese culture and institutions modernised and adapted to enable China to give up her ancient isolation and take her place in the modern world of Sovereign States an equal among equals. The political principles of the Kuomintang made a very strong appeal to the Chinese people, and when the Kuomintang, mainly with the aid of skilful propaganda, overran China these principles were accepted with acclamation by the whole country. If there is any unifying force in China it is the spirit of Sun Yat Sen and the Principles which he bequeathed to the Kuomintang.

The Nanking Government was established by the Kuomintang in October 1928, and was formally recognized by all the Powers as the Government of China before the end of [the] year. It seemed as if at length the long period of chaos and semi-independent regional autocracies had come to an end and as if the Country were about to settle down under a Government whose authority would be recognized all over China. For the first time in 17 years military chiefs and faction leaders met in conclave to adjust differences and discuss future plans with the result that the Government comprised all the outstanding men and represented all shades of political thought excluding always the small discredited clique of communists. Very soon however discord appeared once more. The left wing of the Kuomintang, representing what we should call the socialist labour element, became dissatisfied because they considered that not sufficient progress was being made with the social side of the Revolution. The dispute grew more bitter and ended with their ejection from the Government and their leaders went into exile. Then the Military leaders could not abandon their suspicion of each other and of the governing clique. Feng Yu-hsiang—the Christian General—openly charged the leading members of the Government with corruption and extravagance to the neglect of the interests of the common people and he withdrew in dudgeon to the North-West. In March 1929 the leading Cantonese General—Li Chi Sen—was arrested, while attending a Party conference at Nanking, on suspicion of plotting rebellion. This greatly increased mutual suspicions, and made the adjustment of differences of opinion by discussion rather than by fighting infinitely more difficult. Attempts to procure disbandment of the vast hordes of soldiers all over China entirely failed. The soldiers lived on the countryside and seized every available source of revenue. Presently the people began to find that the

bright hopes with which the Nanking Government had been ushered in were doomed to disappointment. Taxation became more crushing than ever and life more insecure. Peasants who, if they had had the chance, would have been industrious farmers had no option but to turn bandits or join roving bands of so-called communists murdering and destroying. All these ills were blamed on to the Nanking Government. A further cause of grave discontent—especially in the North of China—was the tyrannical interference of the local party committees of the Kuomintang established at any centre of importance. The general situation therefore is that grave dissatisfaction with the Nanking Government is felt by both the left wing and the reactionary elements in China because they feel that they are excluded from any share in the government or from exercising any influence over the policy of the Government; they claim that the Government is not carrying out the principles of the Kuomintang but that it is governing corruptly and extravagantly in the interests of the small clique who have seized the reins of power in Nanking. This dissatisfaction has become formidable because it is supported by the discontent and misery of the vast mass of the people who find themselves no better off under the new dispensation than they were under the old regime of Tsuchun rule. The present movement therefore appears to aim not at overthrowing the Kuomintang or the present constitution but at changing the personnel of the present Government. On the other hand it might fairly be claimed that the difficulties of the Nanking Government are no fault of theirs but were inherent in the situation; that they were of a character which it was impossible for them to overcome unless they were given a fair chance and ample time; that no alternative set of men put in office could do better and that they might even do much worse. Several of the present members of the Nanking Government are obviously sincere, honest and capable; T. V. Soong, the Minister of Finance, in particular has won universal respect by his brilliant abilities and his gallant efforts to grapple with a heartbreaking problem. On the whole it is probably true that the present centre faction in control at Nanking represents the most stable political element in the Chinese situation. So long as they remain the Government of China it seems entirely right and proper that His Majesty's Government should do its utmost to assist them by showing a friendly and sympathetic consideration for their difficulties, by giving them 'face', affording moral support, by the exercise of personal influence and by offering counsels of moderation whenever the opportunity occurs. That is in fact the line which Sir M. Lampson has pursued with the full approval of His Majesty's Government.

If however it is suggested that support should go further than this then a different order of considerations arise[s]. Support which savoured of intervention on one side or the other in a domestic Chinese dispute would not only be fatal to British interests and British influence in China but would also be fatal to the side on whose behalf the intervention was made. No outsider can make himself the Judge in a Chinese dispute. On both sides there is a mass of corruption and self-seeking overlying a core of genuine patriotism

and political principle and it is impossible to be certain to which side inclines the balance of right. As between Chiang Kai Shek, the President, and Yen Hsi Shan, the model Tuchun his opponent no-one can say which is the better man. Granted that the Nanking Government appears to be the most stable faction in China, if we actively take sides with Nanking we identify ourselves not only with the good that they have done but also with the evil. Their opponents have legitimate grievances and if we actively intervene to keep the Nanking Government in power we will be held responsible for fastening these grievances irretrievably on them. Such a policy might be momentarily successful and might give the Nanking Government a new lease of life. But what would be the position of a Chinese Government kept in power by a foreign Government and rendered capable by means of foreign support of crushing its political opponents? Prosperity would not return overnight on the cessation of civil war. Oppression, tyranny, crushing taxation, stagnation of trade, lack of confidence are evils that take a long time to eradicate. In the meantime the blame for all the ills that China suffers from would be laid at the door of the foreign Power that had intervened. The Government would be loathed and despised as the creature of that foreign Power. Public opinion would turn against it, its best men would desert it and before long it would fall leaving the country in a worse state of chaos than before but united only in its hatred of the Power that had interfered in its domestic affairs.

The policy of intervention is not only wrong in principle, it is probably also impracticable. It is difficult to imagine what form support of the Nanking Government could take. No one would suggest supplying the Nanking Government with money or munitions. It may be suggested that we should prevent arms being shipped to their opponents. The Arms Embargo was not a conspicuous success and it was lifted immediately after we had recognised the Nanking Government. It would be difficult to reimpose it, and even if it were reimposed, it would operate equally against Nanking as against their opponents. As regards prohibiting the shipment of arms to the opponents of the Nanking Government no arms may be imported now into China without the import permit of that Government and yet the arms reach their opponents partly because smuggling is difficult to stop and partly because Chinese generals are always changing sides. Another proposal that has actually been made is that the oil companies should boycott *Yen Hsi Shan* and thus deprive his armies of necessary supplies of oil. The answer is that within a fortnight consignments of oil would be rushed across the Pacific from America by independent companies. Something of this sort happened some years ago in South China when the oil companies regularly trading in China ceased selling as a protest against a tax which they considered to be illegal and excessive.

There is one minor form of intervention which is not only practicable but which is actually arising now as a problem demanding urgent solution. Yen Hsi Shan, the *de facto* ruler of the region round Tientsin, is demanding that the Customs revenues collected in Tientsin should be handed to him and

not remitted to Nanking. We might interfere by force to prevent his securing these revenues but this would be a most dangerous course to adopt. It would have no appreciable effect on the course of the civil war but would involve us in all the dangers of intervention described above. Yen Hsi Shan may become the ruler of China or he may continue for an indefinite period to be the *de facto* ruler of North China. It is essential therefore that we should do nothing that would permanently antagonise him. In short our policy should be to assist China by every means in our power to secure peace, order and progress but we should leave the Chinese to choose their own form of Government and their own rulers.

J. T. P.

No. 279

Sir R. Lindsay (Washington) to Mr. A. Henderson
(Received June 16, 4.25 p.m.)

No. 231 Telegraphic [F 3277/1/10]

WASHINGTON, June 15, 1930, 1.55 p.m.

My despatch No. 800¹ of May 16.

Extraterritoriality.

Dr. Hornbeck handed on June 11 to Mr. Huxley:

(a) Letter replying to Mr. Campbell's letter of May 16² and two short memoranda amplifying points made in letter;³

(b) Copy of draft agreement on extraterritoriality revised to June 4;

(c) Excerpt from State Department's 'instruction' of June 9 to United States Legation at Peking enclosing copies of (a) and (b).⁴

Copies of (a), (b) and (c) are being sent to United States Embassy in London. Copies (a) and (c) went to you by bag June 13. Perhaps you could get United States Embassy to show you (b). United States Legation at Peking should receive (c) in about a month.

(a) states that State Department is favourably disposed towards all amendments noted in enclosure in Mr. Campbell's letter except suggested amplification of Article 9 excluding from application of agreement areas at Tientsin, Hankow and Canton. This amendment was also suggested to State Department as emanating from British Foreign Office by the United States Minister in a telegram from Nanking dated May 3 but State Department understands from the first sentence of third paragraph of my letter that Foreign Office and Sir M. Lampson now regard it as one of possible proposals which 'may be somewhat too unpalatable to the Chinese'. State Department is of the same view, considers Article 9 as containing [*sic*? con-

¹ Not printed.

² See No. 276, note 7.

³ This letter of June 10 and the memoranda enclosed therein are printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 448-51.

⁴ This despatch to Mr. Johnson regarding the draft of June 4 is printed *ibid.*, pp. 446-8.

tained in] revised draft communicated to you by United States Embassy in London (see my telegram No. 171⁵) is probably as satisfactory a proposal in this respect as might be presented to the Chinese with the hope of acceptance. United States Government would not be able to make proposals regarding Tientsin, Hankow and Canton but the State Department realises that His Majesty's Government might with warrant wish to make proposals regarding those ports similar to proposal favoured by the United States Government regarding Shanghai.

As regards request contained in second sentence of third paragraph of my letter for views of State Department on proposal of boundary line [*sic*],⁶ Article 1, provision for future transfer by agreement of criminal jurisdiction, State Department would be pleased to receive information indicating possible terms of such provision. (See also under (c) below.)

As regards penultimate paragraph of Article 1 dealing with language [? of the] courts Department agrees with Foreign Office and this paragraph, as well as corresponding sentence in penultimate paragraph of Article 2, has been deleted from the draft agreement.

As regards final paragraph of Mr. Campbell's letter, State Department notes that His Majesty's Government and Sir M. Lampson are now inclined to view that criminal jurisdiction should be relinquished in exchange for evocation and co-judges. State Department's view remains substantially as stated in my telegram No. 172.⁷ State Department refers to apparent attitude of C. T. Wang as mentioned therein and also to more recent information given by Sir M. Lampson to United States Minister to effect that Wang Chung-hui in stating positively he will not agree to co-judges uses phrase 'any other guarantee but that'.

State Department has not failed to apprehend danger mentioned in penultimate sentence of Mr. Campbell's letter but in view of State Department doubt (which is re-affirmed) whether Chinese can be persuaded to accept either evocation or co-judges as well as of 'difference in emphasis between British and United States Governments', Dr. Hornbeck does not see what better can be done than to include in drafts all three measures, 'hope' to propose all three to Chinese, and 'when Chinese reaction shall have given us more light as to possibilities, shape our course[s] accordingly'.

Among three proposals State Department attaches most importance 'value and likelihood of acceptance by Chinese being considered' to retention of criminal jurisdiction. He intensified this point in one of the short separate memos mentioned above reiterating view that Chinese will make less opposition to retention of criminal jurisdiction than to creation of co-judges and stating that State Department does not set *great* store on evocation. Of the three points Department giving consideration both to possible usefulness and to likelihood of acceptance by Chinese looks upon retention of criminal jurisdiction as most important.

⁵ No. 268.

⁶ This passage should probably read: 'proposal to insert in Article 1 a provision'.

⁷ No. 269.

As regards procedure which State Department proposes to adopt when final version of draft is ready, best that Dr. Hornbeck can do at this time by way of reply is to say that State Department is giving consideration to that question.

(c) describes principal amendments embodied in revised draft and draws attention to the following stipulation added to third paragraph of preamble: 'and when National Government shall have demonstrated its ability to give effect throughout China to terms of this agreement'. Also to the following addition to Article 16: 'After a period of not less than five years from the date of ratification of this agreement in which period of⁸ workings of special courts trying civil cases involving nationals of United States of America have been carefully observed, especially in reference to demonstrated freedom of courts from administrative interference by military and/or other non-judicial authorities, the matter of the extension of Chinese jurisdiction over nationals of United States of America in other than civil cases shall receive further consideration, action to be taken in this regard to be determined in the light of experience of actual working out of present provisions regarding civil cases.'

Inclusion of this paragraph 'which will in all probability be strongly opposed by the Chinese' under heading of Article 16 will, it is believed, render it somewhat less conspicuous than if it were inserted as a separate article.

Concluding words of last sentence of Article 16 as formerly drafted are now altered to read as follows: 'by mutual consent after demand and negotiation shall apply and likewise at expiration of every successive term of five years'.

Texts [*sic*] of second short memorandum is contained in my immediately following telegram.⁹

⁸ This word should read 'the'.

⁹ Not printed. See note 3 above.

No. 280

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 160 Telegraphic [F 3358/12/10]

FOREIGN OFFICE, *June 17, 1930, 7.0 p.m.*

The present situation in China causes me great concern owing among other reasons to its reactions on British trade and I am anxious to explore any means there may be for helping her to recover. Your experience of nearly four years in the country makes your advice particularly valuable, and I should greatly welcome, if it were possible, an opportunity of personal consultation. In the present critical situation I realise that if you were to come home for even a brief visit His Majesty's Chargé d'Affaires might be faced

with the necessity of taking difficult and important decisions at short notice. I can, in the circumstances, only be guided by your judgment as to whether you could safely leave your post at such a time.

No. 281

Memorandum by Sir J. Pratt on the Tientsin Customs

[F 3457/2449/10]

FOREIGN OFFICE, June 18, 1930

Customs revenues are regarded as consisting of (A) the proceeds of the old 5 per cent. Treaty Tariff¹ (B) the additional revenues accruing from the increased duties imposed under tariff autonomy.

The foreign loans secured as a first charge on the Customs revenues are regarded as being secured on A and not on B. Consequently A is always paid into foreign custodian banks and used (under the Custodian Bank Agreement of 1912) for the service of the foreign loans; B is paid into Chinese banks and used for the service of domestic loans.

On May 1st the Shansi authorities, being in *de facto* control of the Tientsin area, issued orders to the Chinese Bank not to remit any part of B to Shanghai. They made no attempt to interfere with A. Their justification for this action was that they were engaged in civil war with the Nanking Government and they refused to allow any revenues collected in their territory to be made available for the use of the Nanking Government.

At this time Sir M. Lampson was in Nanking, and the Minister for Foreign Affairs immediately (viz. on May 1) informed him that the Nanking Government proposed to secure transmission of the revenues to Shanghai through a foreign bank or failing this to blockade Tientsin so that no revenues should be collected there at all and he asked for Sir M. Lampson's support. In his telegram² reporting these developments Sir M. Lampson seemed to be averse to being drawn in to the quarrel. He thought that the utmost we could do was to drop a discreet verbal hint to the Shansi Authorities not to proceed to extremes.

On May 6 Sir M. Lampson was in Shanghai and was consulted by the Hongkong and Shanghai Bank as to whether it would be wise for them to act as collecting bank for all Customs revenues at Tientsin. The result of this discussion appears to have been that the Bank refused to accept this responsibility.

In the meantime, however, Colonel Hayley Bell—the Commissioner of Customs at Tientsin—had already on May 5th solved the immediate difficulty by collecting the revenues himself and remitting them in his own name to Shanghai. The Shansi Authorities immediately made it clear that if this

¹ See Article VI (e) of the Protocol of 1901 (*British and Foreign State Papers*, vol. 94, p. 690).

² Telegram No. 150 Tour of May 2 from Nanking (not printed).

continued a serious situation would arise. They threatened either to establish their own Custom House lower down the river or forcibly to take possession of the Custom House and eject Colonel Hayley Bell. They proposed as a compromise that the whole Tientsin revenue should be placed on deposit in Tientsin and not touched by either side until a Central Government—recognised by all factions—had once more emerged from the struggle. The Nanking Government refused all suggestion of compromise and explained that if the Shansi Authorities carried their threats into execution they would either blockade Tientsin or collect duties on the Tientsin Trade before steamers cleared for that port. In either case the Shansi Authorities would find there was no revenue for them to collect.

From May 6th onwards our representatives in Peking and Shanghai made continuous efforts to induce the Shansi Authorities not to proceed to extremes and the Nanking Government to accept the reasonable compromise offered by Shansi.

As late as June 10 Sir M. Lampson still hoped that the issue of the Tientsin problem would depend on the major issue between North and South. On the 16th June however the Shansi Authorities appointed Mr. Lenox Simpson—an adventurer with an unsavoury reputation—Commissioner of Customs at Tientsin. On the same day Mr. Simpson appeared at the Custom House and gave Colonel Hayley Bell a letter stating that he had taken charge of the Customs by force. Previously Colonel Hayley Bell had stated that if this happened he and the whole staff, Chinese and foreign, would withdraw. In fact however Simpson stated that any Chinese who obeyed Colonel Bell's orders to withdraw would be shot, whereupon Colonel Bell alone withdrew leaving the staff intact. The Shansi Authorities have thus succeeded in seizing the Custom House without dislocating the machinery.

It is clear that the Nanking Government have been in the wrong in not accepting a reasonable compromise when offered. It is equally clear that the Customs Authorities have shown grave lack of wisdom. They could and should have kept out of the dispute, but did not do so. Colonel Hayley Bell's action in collecting the revenue himself—instead of through the usual banking machinery—from May 5 onwards was a fatal error. Mr. Maze and Colonel Bell should have explained to the Nanking Government that they had tried to transfer the collections from a Chinese to a foreign bank and had failed, that it was obviously impossible for the Commissioner to collect the revenue himself, and that therefore there was nothing more to be done. The issue would then have lain solely between the Shansi Authorities, the Nanking Government and the Chinese banks with the Customs functioning as usual and taking no part in the dispute.

The responsibility for this fatal error of judgment appears to rest on Mr. Maze's shoulders. The correspondence in F 3098/2449/10,³ which has been communicated to us privately by Mr. Stephenson and which we do not know whether Sir M. Lampson has seen or not, shows that on April 30 Mr. Maze instructed Colonel Bell to transfer the collecting agency to a foreign bank.

³ Not printed.

Colonel Bell replied on May 2 asking what he was to do if no foreign bank would accept the collecting agency. 'I might possibly arrange to collect myself until action, which seems inevitable, is taken against me.' Mr. Maze replied on the same day instructing Colonel Bell in that event to collect the duties himself. On the 4th May Colonel Bell telegraphed 'I am arranging to collect with a Customs staff for the present and start tomorrow.' On the 5th May he reported that he had taken over the collecting office that morning.

So far as we can tell no British authority had any opportunity of expressing an opinion as to the wisdom of this step. Sir M. Lampson was in Nanking from April 17 to the night of May 4. He was in Shanghai from May 4 to May 9 when he left on a man of war and arrived in Peking on May 12. Between May 5 and May 9 he appears to have seen Mr. Maze but we do not know what passed except that Mr. Maze informed him that Colonel Bell had been instructed 'not to break contact with the local people and to do his best to avoid forcing an issue'. Later conversations between Mr. Ingram and Mr. Maze merely related to the feasibility of the suggested compromise.

The present position is that the Shansi Authorities have formally stated to His Majesty's Minister that they have no intention of using the Customs receipts at Tientsin. 'A' will continue to be paid into the Hongkong and Shanghai Bank for the service of the foreign loans; 'B' will be placed on deposit in the Chinese bank pending the establishment of an 'active Government'.

There are two points on which we have to reach a decision:—

1. Lenox Simpson has for some time past been Adviser to Yen Hsi Shan, the Tuchun of Shansi, and has edited a Peking paper in his interest. After he had been appointed by Yen Hsi Shan Commissioner of Customs at Tientsin and had actually assumed his post by force Sir M. Lampson instructed the Consul-General at Tientsin to send for him, read to him the relevant portions of Article 75 of the Order in Council of 1925⁴ and to explain that it would be for His Majesty's Government to decide what action, if any, would be taken. Unless the Nanking Government acquiesce in the seizure of the Tientsin Customs—which is in the highest degree improbable—these instructions are to be acted on immediately. In the meantime it is stated in the Press that Simpson told Colonel Bell that any of the Chinese staff who obeyed Nanking's order to withdraw would be shot. Sir M. Lampson is not in favour, in any case, of prosecuting Simpson, but it seems desirable to have a legal opinion as to whether any act of Simpson's comes within the terms of the Order in Council.

2. In case the Nanking Government attempt to collect the Tientsin duties before steamers clear for Tientsin Sir M. Lampson proposes to insist on British vessels clearing from Shanghai on Consular clearance alone. The difficulty about this is that we may not be able to prevent such steamers being penalised on their return to Shanghai. A further question is whether duties should be paid to Yen Hsi Shan's Customs at Tientsin on the understanding that they are to

⁴ Article 75 (1) of the Order in Council of March 17, 1925, providing for the exercise of British jurisdiction in China, is printed in *British and Foreign State Papers*, vol. 121, p. 135: cf. No. 295.

be locked up or whether they should be paid to the Consuls at Tientsin for the time being. A decision on these points must await the receipt of the report of Mr. George, Commercial Secretary at Peking, who has been sent to Tientsin to study the situation.⁵

J. T. PRATT

⁵ His Majesty's Government considered that it would be impolitic to be drawn into a Chinese dispute, and British shippers were advised to pay customs duties on demand both to the *de facto* authorities at Tientsin and to the Nanking authorities who collected at Shanghai duties properly payable at Tientsin. H.M. Minister associated himself with the representations on this subject sent by the Diplomatic Representatives at Peking to Marshal Yen and to the Nanking Government. The draft notes printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 259-60, were despatched with minor amendments on July 1.

No. 282

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received June 20, 11.0 a.m.)

No. 366 Telegraphic [F 3385/12/10]

PEKING, June 20, 1930, 3.30 p.m.

Your telegram No. 160.¹

I fear no outside assistance will help China to get over her present troubles: it might well make things worse. So long as present conditions continue little we can do will help British trade, root causes are too deep. I have already concurred in the idea of visit by Commercial Mission of enquiry next autumn but I have little hope that they will come to a different conclusion.

I am absolutely opposed to any idea of interference by us in any form. Such a departure from our sound traditional policy would in my considered opinion be ill-judged and liable to prejudice our own interests without helping China. Apart from invidiousness of interference in foreign domestic affairs present upheaval in China is too vast and complex and we should burn our fingers.

I am most appreciative of suggestion that I should visit England for personal consultation, but you will wish me to say what I really think and I am convinced that the moment could not be less opportune. So far as I can judge, the highly critical period through which we are passing is likely to continue. In the circumstances I cannot conscientiously recommend that I should leave my post for however short a time. Nor would it be fair to place so great a responsibility on any 'locum tenens'.²

¹ No. 280.

² The Prime Minister minuted this telegram: 'This seems sound'.

No. 283

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 180 Telegraphic [F 3385/12/10]

FOREIGN OFFICE, *June 28, 1930, 6.15 p.m.*

I readily accept your view that in the existing critical situation in China it is impossible for you to come home even for a brief period for the purpose of personal consultation.

I trust however that as soon as the situation admits you will bear in mind my wish for consultation even though the prospects of embarking upon an active policy may be slender.

No. 284

Sir M. Lampson (Peking) to Mr. Ingram (Shanghai)

No. 203¹ Telegraphic [F 3591/103/10]

PEKING, *July 2, 1930*

My telegram No. 124 (on tour) to Foreign Office.²

I have heard nothing since from Minister for Foreign Affairs about arranging details of rendition. To avoid our being rushed at the last moment please enquire what he is doing about sending special representatives to Weihaiwei to discuss details with Commissioner and whether any decision has yet been reached concerning future administration of territory regarding which he gave me certain assurances.

It is still too early to decide definitely whether or no we shall be able to ratify and rendite on due date but I am sure it is best to assume at present that we shall be able to do so.

Repeated to Commander-in-Chief, Foreign Office and Weihaiwei.

¹ This telegram was addressed to Shanghai as No. 203, and was repeated as No. 415 to the Foreign Office where it was received on July 2 at 4.45 p.m.

² No. 271.

No. 285

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received July 7, 10.30 a.m.)

No. 425 Telegraphic [F 3702/1/10]

PEKING, *July 7, 1930, 3.35 p.m.*

Following received from Nanking No. 156 of July 5.

Addressed to Peking, repeated to Mr. Ingram.

Dr. Wang personally handed to me following message for you, begins:—
It has been several months since initiation of discussions between representa-

tives of National Government and His Majesty's Government on question of assumption of jurisdiction by Chinese Government over British subjects in China. In view of uncertainty felt in minds of both Chinese and British Nationals in regard to question it is only (*sic*) imperative for the two Governments to resume negotiations and arrive at a definite and satisfactory settlement at an early date. If views of His Majesty's Government on the subject have crystallized into any concrete and useful proposal it is believed that Sir M. Lampson will at once put forward such proposal to Minister for Foreign Affairs and continue discussion with him in person in the same friendly and sympathetic spirit as heretofore. Ends.

In handing this message to me Dr. Wang said that although he had heard nothing from you he had information that you had certain proposals and he would like to resume negotiations.

He added privately, specifying distinctly that it was not for official communication in this telegram, that question of delay has made it uncomfortable for people in Government who were exerting their best efforts to put down present rebellion and confident that they would do so.

No. 286

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received July 7, 11.35 a.m.)

No. 426 Telegraphic [F 3703/1/10]

PEKING, July 7, 1930, 4.15 p.m.

Nanking telegram No. 156.¹

This is no doubt a move in the internal political game.

My inclination would be to reply that as I have . . .² all along my intention is, subject to political contingencies, to spend the bulk of September in the South in order to continue discussions already begun on various outstanding questions. That meanwhile His Majesty's Government are continuing their detailed study of extraterritoriality question with a view to eventual issue to me of general instructions but that Dr. Wang as a reasonable man must appreciate that at a time when civil war is raging and many parts of the country are entirely outside control of Central Government no foreign Government can properly be expected to negotiate final settlement with them on so fundamental a question—seeing that such settlement could not as things now are be enforced by Nanking in about three-quarters of China. Do you agree?

It would be of general interest to know position as regards extraterritoriality scheme now before you. Do you anticipate that I shall have it in final form in more or less near future?

My view is that this is certainly a time to go slow at this and all other important questions. Future is still too uncertain.

Repeated to Mr. Ingram and Nanking.

¹ See No. 285.

² The text is here uncertain.

No. 287

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received July 9, 9.0 a.m.)

No. 423 Telegraphic [F 3735/103/10]

PEKING, July 8, 1930¹

Following received from Weihaiwei No. 15 of July 4.

Addressed to His Majesty's Minister No. 15, repeated to Mr. Ingram.

Your telegram No. 11 of July 2.²

Three Chinese rendition delegates arrived on June 26. Chief delegate is Commander Hsu Tsu-shan, formerly in Chinese navy. They are staying in hotel as guests of this Government and discussions are proceeding harmoniously. Their object is to discuss preliminaries and investigate local conditions with a view to submitting a report to Nanking Government and recommendations regarding future administration. Hsu Tsu-shan informs me it is hoped to make this a free port and special area under direct control of Central Government but to make slight modifications in boundaries which at present are purely artificial and to include Weihaiwei City. He assumes that rendition will take place on October 1 but speaks frankly on the uncertainties of political situation. Fuller details will be sent by post. Commissioner.

¹ The time of despatch is not recorded.

² The reference is uncertain, but is probably to a repetition to Weihaiwei of Peking telegram No. 203 to Mr. Ingram (No. 284).

No. 288

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 203 Telegraphic [F 3703/1/10]

FOREIGN OFFICE, July 16, 1930, 1.13 p.m.

Your telegram No. 426.¹

Copy of draft scheme as revised by State Department after consideration of observations and amendments contained in my telegrams Nos. 241 and 242 to Washington² has been communicated to us and another copy is expected to reach United States Legation at Peking about the middle of July.³ The new draft adopts all our amendments except that to Article IX but State Department realise that we might wish to include such a proposal in our draft. An addition to the Preamble stipulates that the agreement is not to come into force until the Chinese Government have demonstrated their ability to give effect to its terms throughout China. In Article XVI it is proposed that the surrender of criminal jurisdiction might be considered after five years experience of the working of the agreement. The State Department explain that they attach more importance to retention of criminal jurisdiction than to co-judges or right of evocation, that everything put forward by them must be

¹ No. 286.

² Nos. 276 and 277.

³ See No. 279, note 4.

regarded as tentative pending consideration of the whole question by the Secretary of State and that 'the Department has not yet definitely decided what it will propose or when it will make proposal or by what procedure. All of these points are under consideration. The Department is definitely of opinion that retention of criminal jurisdiction and maintenance of various safeguards are essential points.'

Despite the uncertainty of State Department's attitude it seems probable that you will be in a position to resume negotiations on your next visit to Nanking. It will however be necessary to consult the Dominions before draft as now amended is actually presented to the Chinese Government. I agree that Dr. Wang's message is probably a move in the internal political game, but in the circumstances it might be sufficient merely to maintain our attitude of readiness to negotiate leaving the facts of the situation to determine the amount of progress that can be made. I suggest therefore that you should convey a message to Dr. Wang in the sense of the first sentence of the second paragraph of your telegram under reference adding that His Majesty's Government have now nearly completed their study of the draft referred to in your telegram No. 107 from Nanking,⁴ that you expect to receive detailed instructions before your departure for Nanking and that you hope to make such progress with the negotiations as the general political situation in China will permit.

⁴ No. 262.

No. 289

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received July 16, 9.0 a.m.)

No. 442 Telegraphic [F 3878/1/10]

PEKING, July 16, 1930, 1.15 p.m.

Following received from Mr. Ingram No. 164 of July 12.

In the course of conversation this morning Dr. Wang reverted to his message regarding extraterritoriality—see Nanking telegram No. 156.¹ He said he had heard from London that Foreign Office had already sent you comprehensive instructions with wide discretionary powers. If it was the heat you feared why could you not meet at Weihaiwei or even at Kuling? He would be able owing to favourable turn of events at the front to have the place surrounded with troops so that you and he would be quite safe.

I told him I knew nothing about these instructions and that in any case it seemed to me a most inopportune moment to raise the question. He must not try to go too fast. Let us concentrate on making progress with practical things e.g. Hankow and Kiukiang leases and Amoy. I hoped over the week-end to resume discussions with him over drafts regarding latter. If our dis-

¹ See No. 285.

cussions resulted in signature this would surely be proof to his own Government and the world of good-will of His Majesty's Government towards his Government and of undeviating consistency with which that good-will found practical expression. Ends.

No. 290

Foreign Office Memorandum respecting the Prospects of Stable Government in China

[F 3981/61/10]

FOREIGN OFFICE, July 19, 1930

The Chief of the Imperial General Staff states that 'it is impossible to foresee any end to the present disturbed condition of China. Indeed, the vast difference of race, language and general outlook between the inhabitants of the various parts of this enormous country render the formation of either a real national army or a stable Government highly unlikely, at least for a generation, possibly for longer.' The Foreign Office agree with the view that there seems little prospect of the establishment for perhaps a generation of a stable government in China, but not with the reasoning on which this conclusion is based. There is, in fact, and always has been a considerable degree of homogeneity in China as regards race, religion (so far as the Chinese have any real religion) and general outlook. This cultural unity, based on the moral philosophy of Confucius, has bound the Chinese together for some 2,000 years in a solid indestructible mass, in spite of the fact that their political organisation was of an amorphous and rudimentary character. The need for a closely-knit political system and a centralised form of government exercising control over, and wielding the power of, all sections of the country only began to make itself felt when China came for the first time into contact and conflict with the nations of the West in the middle of the last century. The doctrines of Confucius were of no avail in a set of circumstances which he had never contemplated. It was the special merit of Sun Yat-sen that he devised for modern China a system of political principles which, while discarding nothing essential from the Confucian philosophy, held out the prospect of enabling China to set up a modern democratic government and establish herself as a modern State similar and equal to the States of Europe and America. The essential unity of the Chinese mind was once more exemplified by the fact that Sun Yat-sen's political principles, once the organ for their propagation—the Kuomintang—had been welded into an effective revolutionary instrument, were accepted with acclamation by Chinese of all shades of political thought throughout the country. It was on the basis of these principles and with a view to carrying them into practical effect that the present National Government was established at Nanking in 1928. It was hoped that this Government would consolidate its authority as the Central Government of all China, and it was anticipated that any local leader who

rose in rebellion against the National Government would find public opinion arrayed against him and fail accordingly. Unfortunately, these hopes have been disappointed. It is now recognised that the causes of China's political chaos lie deeper than mere tuchunism, and must be sought in the nature of China's political inheritance and in certain inherent defects—moral not intellectual—that are embedded in the Chinese character.

The first efforts of the Nanking Government were directed towards obtaining control over the revenues of the whole country. As regards the customs and the salt revenues, in which foreign Powers are directly interested by reason of their hypothecation as security for foreign loans and of the foreign element in their respective administrations, the centralising policy of Mr. T. V. Soong, the able Finance Minister of the Nanking Government, met with a considerable measure of success.

In spite of his efforts, however, in June 1929 ten provinces of China proper and the whole of Manchuria remained outside the fiscal control of Nanking, and since then the position has still further deteriorated. Moreover, all attempts at disbandment of superfluous troops—which was rightly regarded as the crux of the whole problem—proved an utter failure. Over 2 million so-called soldiers are scattered all over China under innumerable commanders whose allegiance to this or that political group or to this or that leader is liable to fluctuate from day to day. They all accepted with acclamation the principles of the Kuomintang and the establishment of the Nanking Government, but suspicion, jealousy and inherent incapacity for loyal co-operation and for subordinating self-interest to the common good caused them one and all to refuse to disband a single soldier. The wealth and revenue of the country thus continued to be eaten up by the locust horde of soldiers, the Nanking Government were forced to live on improvident loans to an even greater extent than their predecessors, and all attempts at financial reconstruction, fiscal, administrative or social reform completely failed. The people, who had been led to expect a new heaven and a new earth, were ground down under a heavier burden of exactions than ever before and daily sank into deeper misery. Their discontent was greatly increased by the tyranny of the Tangpu or local committees of the Kuomintang. The National Government was established and is directed by the Kuomintang, which, as the only political party in China, is supposed to exercise the political rights that belong properly to the people until the people—after a period of tutelage—have been granted a democratic Constitution and are able to exercise their rights for themselves. The result of this curious theory is that in practice the Tangpu have terrorised and undermined the authority of the local officials everywhere, committing acts of gross tyranny, illegality and violence for which they cannot be called to account. These Tangpu have made themselves specially obnoxious in the North, where the radical doctrines of the Kuomintang have never taken such firm root as in the South.

The result is that there is now a strong revulsion of feeling against the Nanking Government, and this has broken out in a widespread revolt against its authority. In this revolt Manchuria under Chang Hsueh-liang stands

neutral—aloof and independent. His allegiance to the Kuomintang was never more than nominal. In North China the revolt is not only against the Nanking Government but against the Kuomintang. Yen Hsi-shan aims at setting up a military autocracy in three or four of the northern provinces, with Peking as his capital, leaving the other provinces to settle their own form of government as they like. In the rest of China the revolt against Nanking is headed by politicians of the Left, who claim that the Nanking clique have not truly carried out the principles of Sun-Yat-sen and the Kuomintang. They demand that more attention should be paid to improving the conditions of life of the poorer classes of the people and to the introduction of democratic self-government in local communities with a view to laying the foundation for a real democratic Constitution for China as a whole. Unfortunately, the organisation of workers and peasants for the political purposes of this group produces results which are often in practice indistinguishable from communism, though, in fact, of communism proper—in the Marxian sense of the term—there is very little in China.

This Leftist group is also bitterly opposed to militarism. For the moment there is an unnatural alliance between them and the northern militarists, but, as their only bond of union is hostility to Nanking, there seems little prospect that the overthrow of the Nanking Government would be followed by the establishment of any other Government acceptable to China as a whole.

The existence all over China of innumerable semi-independent bodies of armed men, and the complete failure of disbandment plans, produced a condition of unstable equilibrium. During the whole of 1929 there was a succession of mutinies, outbreaks and rebellions. The Nanking Government was only able to maintain its position by means of liberal subsidies to the chief leaders and by the skilful use of bribes and propaganda playing upon the treachery of subordinate generals. These methods were only effective so long as the money lasted, and this spring has seen an outbreak of civil war on a wider scale than has ever been seen before. Recent consular and other reports from all over China show that the country has been plunged into an appalling state of misery and ruin. In Shensi and Kansu the peasants are taking the law into their own hands. Fukien, Kiangsi, Kwangsi, Hupeh, Hunan, are reported to be hotbeds of banditry and communism.

Swatow reports that the state of affairs in various parts of the interior is appalling. Certain districts are said to be infested with communists and bandits, while others are described as being 'as usual, entirely out of hand'. Foochow describes how, as soon as the troops were withdrawn to take part in the civil war, the communists in the south-west of the province again gained the upper hand. 'It is difficult at times to say when bandits cease to be bandits and become the responsible *de facto* rulers.' The report also describes the lawless acts of the local Tangpu, which no steps are taken to restrain or punish. Changsha reports that banditry and communism are rife in all frontier districts and in many others. Ichang reports increasing lawlessness in every direction. Hankow reports that the communist forces are gaining ground in Kiangsi

and that the officials in Nanchang and Kiukiang are preparing for flight. Tsingtao reports that there is no stability in the local Government; the Tangpu intimidate the local executive and disorderly and communistic elements predominate in labour. An interesting report from Amoy draws a picture of the province of Fukien, which is probably equally true of China as a whole. It describes the extraordinary number of mutually hostile groups and leaders, who divide between them the control of the province. The most powerful is a former bandit, who is now a divisional general, while another is an enlightened bandit who was formerly commandant of gendarmerie. This latter is progressive, governs well, keeps order with a firm hand, and is a generous supporter of local schools. The west of the province is given over to communism, while piracy is endemic on the seaboard, and 'has assumed proportions unknown since the old days before foreign gunboats purged the seas of this curse'. And yet, the report concludes, 'in the midst of so much misery and desolation there are some indications of a material and intellectual progress'.

It is frequently difficult to distinguish between communist and bandit activities. Much of what in the old days would have been simple banditry or peasant revolts is now styled communism. Nevertheless, it is certain that the misery in which so large a portion of the populace is plunged provides a fertile soil for communist propaganda, and it is equally certain that money for that purpose is being supplied by Moscow. The provinces of Fukien, Kiangsi, Kwangsi, Hupei, Hunan, Anhui, are all infected with communism. The communists are most highly organised in Kiangsi, where there is a Red army numbering about 10,000. In the other provinces there are Red partisan bands, among whom the doctrines of communism are systematically preached. No serious attempt has hitherto been made, though the idea is probably cherished in Moscow, to join all these bands into one or more large armies with a view to establishing communistic control over any considerable section of China. Probably in view of the inherent incapacity of the Chinese for any form of cohesion, any such attempt would be futile. There is evidence, however, of a definite plan to establish a communistic belt within striking distance of the centres of trade and industry on the Yangtze and to bring the whole of the Yangtze Valley under communist influence. The fomenting of strikes and disturbances in Shanghai and other industrial centres is a part of this general plan. The net result of all these communist activities is to prolong the period of administrative and economic chaos and to prevent the establishment of any ordered system of government.

It is very difficult to foresee the outcome of the present civil war. It is just possible that the Nanking Government may be able to adjust its differences with the leftist group and by adopting certain obvious measures, such as broadening the basis of the Government and checking the tyranny of the Tangpu, obtain a new lease of life. The north of China, however, is unlikely to accept again the control of the Kuomintang, and may become as Manchuria; and, in any case, a reconstructed central government would still be faced with the insoluble problem of disbandment. At present no

leader can occupy an important position or play a prominent part in Chinese politics unless he is supported by a body of troops owing allegiance to him alone. This also applies to political groups in China. It follows that no disbandment can take place until there are a sufficient number of leaders who are willing and able to abandon their mutual jealousies, suspicions and rivalries, and subordinate their own private interests to the general good of their country. This must obviously be a slow process, and, in the meantime, there seems to be no alternative to varying degrees of political chaos.

This is a conclusion which it is very difficult for the Western mind to accept, but it must be remembered that political chaos is not so abhorrent to the Chinese mind as it is to the foreigner. The conception of a strong central government is entirely alien to the spirit of Chinese institutions. China has been described as a collection of families, an agglomeration of village republics managing their own local affairs with the minimum of interference from above. China has never in all her long history had a strong central government. The vast mass of the Chinese people feel no desire for any such institution, and it is significant that even the leaders of Chinese political thought contemplate the reform of China's constitution not from the top but from the bottom upwards. Thus the reactionary Wu Pei-fu considered that the people would be quite content with their local institutions, while the plans of the radical reformer, Sun Yat-sen, contemplated the introduction of constitutional self-government in municipalities and local districts, leaving the evolution of a democratic constitution for China as a whole to be developed in the distant future by the gradual synthesis of these local constitutions. A certain degree of centralisation was forced upon an unwilling China by her contact with the West in the middle of the last century, and even now it is only the active politicians who feel the necessity for a Central Government, but the Central Government which they desire—and the only one which is likely to be set up in the near future—is a façade for the purpose of conducting China's foreign relations. It is not surprising, therefore, that local leaders and political groups should be reluctant to surrender the reality of power for the sake of an ideal which makes no appeal to any considerable section of public opinion in China.

The conclusion which the Foreign Office has reached is therefore that it is unlikely that any stable authority will be established in China for possibly a very prolonged period, or that during this period law and order will be adequately maintained. There seems no reason to expect that disorder will result in deliberately organised attacks upon foreign life and property, except in the case of disturbances of a distinctively communistic character. But there may always be isolated attacks by disorganised soldiery, and the spread of the present communistic movement and its intensification under Russian auspices are also possibilities which must be reckoned with in considering the measures to be adopted for the future protection of British interests in China.

No. 291

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received July 22, 9.0 a.m.)

No. 449 Telegraphic [F 3972/1/10]

PEKING, July 21, 1930¹

Your telegram No. 203.²

I note your instructions and will be guided by them. But meanwhile I feel bound to sound a preliminary warning. Not only are we being apparently tied up by State Department to conditions which Chinese cannot conceivably accept and which if left to our own devices we should not have inserted (even United States Minister agrees) but we seem to be in danger of getting a cast-iron scheme on above lines approved by Dominions thus rendering any modification thereof (and if we start serious negotiations there are bound to be any number of alterations) difficult save after similar consultation. This means not only infinite delay but a position for me as negotiator which may become well-nigh impossible. I shall doubtless have to adopt usual course of give and take and am assuming that that is naturally understood despite any cut and dried scheme from which (? we may start)³ off initial negotiations.

State Department will probably let us down ultimately whatever we do.

Meanwhile I am . . . (? Mr. Ingram)³ to convey reply to Minister for Foreign Affairs' (? enquiry) . . .³ last paragraph of (? your telegram)³.

Repeated to Mr. Ingram.

¹ The time of despatch is not recorded. ² No. 288. ³ The text is here uncertain.

No. 292

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 214 Telegraphic [F 3972/1/10]

FOREIGN OFFICE, July 28, 1930, 7.30 p.m.

Your telegram No. 449.¹

I fully appreciate your difficulties but I fear that the constitutional position is such as to render them unavoidable. We cannot enter into any agreement with China on such a subject as extraterritoriality without knowing that policy is generally acceptable to the Dominions. It is essential therefore to communicate the present draft agreement to them before it is actually presented to the Chinese Government as a basis of negotiations.

The new régime which will take the place of the present system of extra-territoriality must necessarily apply to all foreigners alike. It seems obviously desirable therefore that the Powers chiefly interested, namely, the United States and ourselves, should seek to arrive at some common understanding with regard to the safeguards for their nationals and their trade interests in

¹ No. 291.

China which they will seek to obtain from the Chinese Government. This object has been attained in the draft referred to in my telegram No. 203.² It is, however, fully realised that difficulties may arise mainly owing to the differences of opinion between ourselves and the United States as to the relative value of co-judges and retention of criminal jurisdiction (as to which however I have not come to any final conclusion). It is also inevitable that this draft, combining as it does the separate views of both Governments should contain more than either Government can reasonably hope to obtain. We are therefore fully prepared for drastic modifications after negotiations have commenced.

The position is being fully explained to the Dominions and we can only do our best to overcome all these inherent difficulties as and when they arise, with as little delay as possible.

² No. 288.

No. 293

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 227 Telegraphic [F 4294/1/10]

FOREIGN OFFICE, August 7, 1930, 2.5 p.m.

At an interview at the Foreign Office on August 6 a representative of the American Embassy enquired whether the report was true that we hoped shortly to communicate proposals to the Chinese Government. In reply he was informed of terms of message from you to Dr. Wang of July 23¹ which exactly represented our attitude. He then said that State Department wished to know whether Foreign Office would agree that neither the British nor the American Government should present proposals without two weeks' previous notification to the other Government. Embassy is being informed that we agree and that you will give the desired notice to your American colleague in Peking. Finally the State Department enquired if it was really our intention to proceed with the matter shortly on what basis we believed that any useful purpose would be served by doing so at this time. Embassy is being informed in reply that we are committed to negotiate on the subject of extraterritoriality and that therefore we judge it desirable to maintain the attitude that so far as we are concerned we are prepared to continue the negotiations at any time but that of course we fully realise that the rate of progress may be considerably affected by political conditions in China.

¹ i.e. the message sent in accordance with the instructions contained in No. 288.

Mr. Aveling (Peking) to Mr. A. Henderson
(Received August 7, 2.0 p.m.)

No. 490 Telegraphic [F 4293/103/10]

PEKING, August 7, 1930, 3.50 p.m.

Following received from His Majesty's Minister¹ unnumbered of the 6th.
Begins:—

Your telegram No. 218.²

I have hitherto refrained from submitting any [? views] as though Shantung is not now under Nanking's control I doubt whether the environments of Weihaiwei have ever been. Present indications are of a Southern drive to recapture Tsinanfu and foreign military opinion is that should be easy.

I have never entirely shared the home view on this question. A promise is a promise and no condition was made at Washington³ that there must be Central Government control. The only stipulations were for continued naval facilities and safeguarding of British property rights. These are covered by agreements. Please note also that nothing regarding control was stipulated by Japan in handing back Tsingtao which was returned at a time of turmoil though I admit the cases are not analogous.

I submit we should clear our minds as to the precise issue. If, as I imagine it is apparently vague, moral obligations towards *Chinese* inhabitants justifies [*sic*] postponement of rendition until more stability is prevalent, then my instinct is against non-rendition on that score; it would bring us much odium and complaints of hypocrisy if not of lack of faith.

Commander-in-Chief's point regarding possible repudiation of naval facilities is well inspired but I do not myself regard this as a serious risk. It would be a novel development if an independent local authority were to repudiate a solemn agreement signed by the Central Government with a foreign Power at a time of peace. In such event we should however be fully entitled to take our own measures to ensure our rights and public opinion ought to be on our side.

There is much force in proposals in paragraph 10 of Weihaiwei despatch of May 16⁴ should His Majesty's Government decide rendition is inopportune (but see above). In that event I would try to manœuvre Minister for Foreign Affairs into asking for postponement. But I cannot conceive either he or any one being prepared to risk loss of face involved. On the contrary he would

¹ Sir M. Lampson was at Peitaiho.

² Not printed. This telegram of August 1 asked for Sir M. Lampson's views on two despatches of May 16 and June 20 respectively from the Commissioner of Weihaiwei (not printed).

³ i.e. at the 1922 Conference.

⁴ In this paragraph the Commissioner suggested that if political conditions in Shantung were such as to make rendition impossible, it was 'desirable that it should be left to the Nanking Government to propose a postponement of the actual rendition of Weihaiwei'.

almost certainly somehow manage to unload whole responsibility on to our shoulders. But we could always try.

Repeated to Mr. Ingram and Commander-in-Chief for Weihaiwei.

No. 295

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 233 Telegraphic [F 4152/2449/10]

FOREIGN OFFICE, August 12, 1930, 3.40 p.m.

Your telegram No. 469.¹

I agree with you in preferring Alternative A.

The following is text of note which, subject to your concurrence or to any observations or suggestions you may wish to offer, you should address to Chinese Minister for Foreign Affairs:—

Sir,

I have the honour to acknowledge the receipt of your note of July 18² together with your previous communication of June 18² in which you state that Mr. Lenox Simpson has published seditious matter calculated to excite disorder or enmity between the Government of China and its citizens, that, acting under the orders of Yen Hsi-shan, he has assumed the post of Commissioner of Customs at Tsintsin [*sic*], that Yen Hsi-shan is in open rebellion against established authority in China, that Simpson is therefore deliberately and directly taking part in rebellion and openly aiding and abetting the present insurrection against the Government of China, that he is liable to the severest punishment that could be meted out under Chinese law, and that you request me to cause appropriate steps to be taken for his punishment and deportation.

I have duly transmitted your request to my Government together with a copy of certain articles published by Simpson in the Peking Leader² and I am now instructed to transmit to you the following reply.

Under the provisions of the Order in Council, in accordance with which jurisdiction is exercised over British subjects in China, any British subject who 'aids or abets any person in carrying on war, insurrection or rebellion against the Government of China' (Article 75 (1) (a)) is liable to certain penalties including deportation. Article 80 of the Order in Council imposes similar penalties for publishing seditious matter.

The newspaper articles in question do not contain anything which would support a prosecution for sedition, and as regards Simpson's action in con-

¹ Not printed. In this telegram of July 30 Sir M. Lampson had suggested three possible courses of action for His Majesty's Government to pursue in the Tientsin Customs case in view of the two communications from the Chinese Government referred to below. Alternative course A recommended by Sir M. Lampson consisted in refusing in writing Dr. Wang's request for the prosecution of Mr. Lenox Simpson by the British authorities.

² Not printed.

nexion with the Maritime Customs at Tientsin, His Majesty's Government, after most careful consideration, have reached the conclusion that it is not desirable to institute proceedings against him under Article 75 of the Order in Council.

A prosecution would entail the discussion in a British Court of Law in China of questions such as whether the coalition headed by Yen Hsi-shan is engaged in insurrection against the lawful government of China or whether, as the former allege, the Nanking Government is an illegal government which should be displaced by a legally constituted government established by the Northern coalition.

The Government at Nanking have ceased to exercise effective control over all but a small part of China. In some areas ordered government appears to have completely disappeared; in other areas control is exercised and some degree of law and order maintained by independent or semi-independent local authorities, and in such areas it is to them and not to the Government at Nanking that British subjects are compelled to look for the protection of life and property and the preservation of their vital interests.

Article 75 was intended to prevent British subjects from doing something which a Chinese Government, exercising authority over the whole country, would, in the absence of extraterritoriality, punish them for doing; but if extraterritoriality were to vanish tomorrow, the Chinese Government would be no more able in practice to take action against Simpson than they are now. For these reasons the Court might decide that Article 75, which, being a penal provision, must be construed strictly, did not contemplate the present abnormal state of affairs and was not directed against the sort of action which is now in question. Consequently it is by no means certain that a prosecution would result in a conviction. It hardly seems necessary to refer to the unfortunate consequences that might ensue from an unsuccessful prosecution.

The request which Your Excellency has put forward is in fact a request that His Majesty's Government should do something which the circumstances—apart altogether from extraterritoriality—prevent the Chinese Government from doing themselves. His Majesty's Government feel that it is impossible for them thus to intervene, on one side or the other, in a Chinese domestic dispute. It is also contrary to the policy of His Majesty's Government that any British subject should intermeddle in these disputes. They strongly disapprove of Simpson's action but they recognise that he is a subordinate agent and that his removal would not affect the situation.

The causes of the present disastrous situation are to be sought, not in the actions of any subordinate agent, but in the internecine quarrels of rival Chinese factions. His Majesty's Government earnestly hope that, while there is yet time, responsible and patriotic leaders in China may find some means of composing their differences.³

³ This note was communicated to Dr. Wang on August 19.

Record by Sir J. Pratt of a conversation with Mr. Atherton

[F 4464/1/10]

FOREIGN OFFICE, August 13, 1930

Mr. Atherton called to see me today and said in reference to Mr. Cox's call on August 6¹ that there was a certain background to the State Department's enquiries which he wished to explain to me. He referred to Dr. Hornbeck's letter to Mr. Campbell of June 10² and to Mr. Orde's request to him (Mr. Atherton) for a copy of the June 4 draft.³ He referred particularly to the sentence in Dr. Hornbeck's letter that the draft was communicated to Mr. Campbell 'for his information'. The State Department were now much surprised [*sic*] to find that we had communicated copies of their draft to other Powers without first acquainting or consulting the State Department. I said that without the papers before me I was not certain how the communication came to be made, but to the best of my recollection we regarded the June 4 [? draft] as not being specially a State Department draft but as a rescension of the Lampson-Johnson draft which Sir M. Lampson had already communicated to his colleagues in Peking. We knew that the State Department had not finally adopted the June 4 draft but we regarded it as sufficiently advanced to form a basis of negotiations. That being so Sir M. Lampson would naturally discuss it with his colleagues just as he had the first draft and we had therefore felt no compunction about communicating it to any of the Washington Powers who enquired about it. The last thing we had desired or intended was to show any discourtesy to the State Department. I would however look up the papers and if our action was capable of any such interpretation I had no doubt we would express regret.

Mr. Atherton then referred to the question of giving two weeks notice before presenting proposals to China. He said that the State Department wanted this arrangement to apply solely between Great Britain and China [*sic*], namely, that the notice should not be given to any other Power. He further suggested, apparently as his own idea, that if either Government contemplated instructing their Minister to give the two weeks notice they should inform the Embassy of the other country a day or two beforehand. I said that this needed consideration and that I would give him an answer later.

J. T. PRATT

¹ See No. 293.² See No. 279, note 3.³ For the draft of June 4 cf. No. 279, note 4.

Letter from Sir J. Pratt to Mr. Atherton

[F 4464/1/10]

FOREIGN OFFICE, August 15, 1930

Dear Mr. Atherton,

Referring to our conversation on August 13th¹ I have now looked up the papers relating to the draft extraterritoriality proposals and I find that the State Department's telegram,² of which you read me an extract, was founded on a misapprehension. We have in fact been rather at cross purposes. You will remember that Mr. Johnson and Sir M. Lampson collaborated in a draft and that what Dr. Hornbeck handed to Mr. Campbell on June 10th was a version of this draft revised by the State Department to June 4th. Now we have got into the habit of thinking of these documents not as two distinct drafts but as different phases of the same draft. Consequently you were under the impression that we had handed copies of the June 4th draft to various people without prior communication with the State Department. I find now that that is not the case. Sir M. Lampson at various times handed copies of the earlier draft (what we call the Lampson-Johnson draft) to the Japanese, French, Netherlands and Norwegian representatives in Peking. When Mr. Cox called to see me on August 6th the June 4th draft had not been communicated to anybody but a request by the Italian Ambassador for information was under consideration. After Mr. Cox's conversation with me it was felt that we could properly communicate the June 4th draft to the Italian Ambassador and a copy was sent to him accordingly. It has not been communicated to anybody else. As a matter of fact I was under the impression that the State Department had actually communicated the June 4th draft to the Netherlands Minister at Washington but I now find that they only contemplated doing so. This of course was entirely my mistake but it does not seem to make any substantial difference.

With regard to your second point we will agree that the two weeks notice of intention to present proposals shall be given to the American Government only. We feel however that it would be difficult not to take other interested Governments into our confidence also. We would propose therefore to regard the matter as not finally settled until we had received the State Department's observations in reply to our communication giving notice but as soon as it is finally settled we should regard ourselves as free to communicate frankly with other interested Powers should we judge it desirable to do so.

You further suggested that if at any time we contemplated instructing Sir M. Lampson to give the notice to his American colleague we might communicate with you a day or two beforehand, the State Department adopting a similar course *vis-à-vis* our Embassy in Washington. We readily agree to this provided however it is understood that the initiative with regard to

¹ See No. 296.² See *Foreign Relations of the United States 1930*, vol. ii, p. 455.

giving notice might come from Sir M. Lampson and not from us in which case the procedure you suggest would not be possible.

Yours sincerely,
J. T. PRATT

No. 298

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received August 18, 9.0 a.m.)
No. 524 Telegraphic [F 4503/1/10]

PEKING, August 18, 1930, 1.5 p.m.

Following received from Sir M. Lampson,¹ unnumbered of 17th.

Begins—

Your telegram No. 236.²

I most strongly deprecate thus keeping Japan in the dark and am sure we should have reasons to regret it. She is more likely to be helpful during negotiations than is (? State Department)³ in view of latter's attitude last January. What do we gain by adopting a hole and corner procedure which is quite unnatural to us?

If I am precluded from keeping my Japanese colleague informed it will not only run counter to formal assurances of co-operation where interests are mutual that His Majesty's Government have more than once given Tokyo but will probably prejudice my whole future relations with Japanese Legation.

I purport leaving Peking on September 5 arriving Nanking about September 8. In view of official notification made on your instructions to Minister for Foreign Affairs at Nanking and at home in Parliament⁴ it will be difficult not to present Draft almost at once on arrival.

I return from Weihaiwei to Peitaiho on August 25 and unless I hear to the contrary shall then notify United States Minister of my intention to present it. I shall also keep my Japanese colleague and any other interested colleagues who enquire (e.g. French and Netherlands) generally informed of proposed procedure and (if they ask for it) let them have a copy of Draft.

Repeated to Mr. Ingram and Tokyo.

¹ Sir M. Lampson had left Peking on August 13 for a week's visit to Weihaiwei. Correspondence continued to be addressed to and by him at Peking.

² Not printed. This telegram of August 14 gave the substance of the last two paragraphs of No. 297, and enquired whether Sir M. Lampson had any observations thereon.

³ The text is here uncertain.

⁴ On July 16 Mr. Henderson had stated that it was hoped to submit proposals to the Chinese Government before long. See Parl. Deb., 5th ser., H. of C., vol. 241, col. 1259.

No. 299

Letter from Sir J. Pratt to Mr. Atherton

[F 4503/1/10]

FOREIGN OFFICE, August 18, 1930

Dear Mr. Atherton,

With reference to the last two paragraphs of my letter to you of August 15th,¹ we have just received a telegram from Sir M. Lampson² stating that he proposes to give the two weeks' notice to his American colleague of his intention to present proposals immediately after his return to Peitaiho on August 25th and that he then desires to feel free to discuss the whole matter frankly with his other interested colleagues, communicating to them the June 4 draft if he judges it desirable to do so. In view of the length of notice now given we assume that the State Department will regard this as being substantially in accordance with the procedure suggested by them.

Yours sincerely,
J. T. PRATT

¹ No. 297.

² No. 298.

No. 300

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 245 Telegraphic [F 4678/1/10]

FOREIGN OFFICE, August 23, 1930, 3.30 p.m.

Extraterritoriality.

My immediately succeeding telegram¹ contains gist of a telegram which was read by Mr. Atherton during interview at Foreign Office on August 22 and which has been repeated by State Department to your American colleague.

I am inclined to agree that any actual surrender of extraterritoriality during present political chaos might increase menace to life and property, but would it not be better tactics to present proposals and leave Dr. Wang to discover that state of China is such as to prevent him entering into any engagement on behalf of China as a whole? Might not suggestion of delay coming from us afford excuse for nationalist agitation? See last paragraph of my telegram No. 203.² State Department on the other hand suggest that presentation of proposals in September might increase menace to life and property, but I am unable to reconcile this view with policy proposed in final paragraph. As there seems little prospect of any material change in political situation negotiations would be equally dangerous whether commenced in September or at end of the year.

We suspect that State Department's proposal is due to Dr. Hornbeck's fear

¹ Not printed. This telegram transmitted the gist of the telegram from the State Department to Mr. Atherton printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 457-8.

² No. 288.

lest control of policy might fall into hands of Mr. Johnson if negotiations are initiated during Dr. Wu's absence at Geneva. Do you agree with this diagnosis?

Please telegraph your considered views.

Repeat to Tokyo with my immediately succeeding telegram.

No. 301

Sir M. Lampson (Peitaiho) to Mr. A. Henderson

(Received August 27, 7.0 p.m.)

Unnumbered Telegraphic [F 4756/1/10]

PEITAIHO, August 27, 1930, 6.40 p.m.

Your telegrams Nos. 245¹ and 246².

It is all a matter of opinion. But I am personally against delay in presentation to which we are in fact practically committed. It is easy to argue that the whole discussion of surrender of extraterritorial rights is premature in existing conditions in China: but that is *chose jugée* for better or worse, and as a general principle it does not pay to hold up implementation of a pre-determined policy owing to flux of political events.

Nor do I see that any harm can come of our present proposals. If (which I believe to be practically impossible) Chinese Government accept them as they stand we got [*sic*] everything we want: if on the other hand they are (as is in my opinion certain) rejected no harm is done, we have made good our promise to table proposals and negotiations can—if we wish—drag on indefinitely.

No doubt there will be some public criticism especially amongst our own people that at this of all moments we should make proposals of any kind on so important a matter. But that ignores the practical fact that the Chinese can at any moment provoke an issue (cf. McBride³) if we refuse all discussion. On balance therefore I consider we should go ahead and shall leave for the South on September 5 unless instructed to the contrary. I shall not stay South beyond the end of the month having arranged for visit from Commander-in-Chief to begin the first days of October immediately after the rendition of Weihaiwei and before the fleet moves South for the winter.

I fancy there is a good deal of jealousy on the part of Dr. Hornbeck on this question; and the position at United States Legation itself is peculiar—not only as between Dr. Hornbeck and the Minister—but between the latter and his staff. But I suspect the *real* reason for State Department's desire for delay is definite desire that we should not get in first with the proposals at Nanking, rather than internal jealousy. When it comes to the point the State Depart-

¹ No. 300.

² Not printed. See No. 300, note 1.

³ See No. 224, note 1. This case had been allowed to lapse after informal discussions regarding the payment of compassionate compensation to the family of the victim had come to no conclusion. On July 1, after notice had been given to the Minister for Foreign Affairs, Lieutenant-Commander McBride had left Hankow for England.

ment will probably sell the pass as they did last January and I do not think that we should be deflected from our policy in order that they may get whatever *Kudos* there may be in being first in the field with concrete proposals.⁴

Repeated to Tokyo and Mr. Ingram.⁵

⁴ In a private letter of August 31 to Sir V. Wellesley, Sir M. Lampson wrote: 'I confess that I don't see that anything is to be gained by hanging things up. We are publicly and formally committed to table certain proposals with C. T. Wang about Extraterritoriality, so much better get on with it and act up to what we have said we were going to do. As a general principle I am sure it doesn't pay to shilly-shally and go back on one's original intentions owing to the flux of domestic politics. As I said in my telegram either the Chinese take our Extraterritoriality draft (of course there is not the slightest chance of their doing so!), in which case we get all, and more than all, that we want; or else they jib (which they certainly will do), and then discussions begin and drag on in the normal diplomatic way. In neither case can ill-disposed critics subsequently accuse us of having failed to make good our promise. So that to my mind there are no arguments—at least no serious ones—in favour of delay, and I am glad that you should have thought the same.'

⁵ On receipt of the present telegram and in answer to Mr. Atherton's enquiry (see No. 300 and note 1) the Foreign Office communicated to Mr. Atherton the memorandum printed op. cit., vol. ii, p. 459.

No. 302

Sir M. Lampson (Peitaiho) to Mr. A. Henderson
(Received August 27, 4.0 p.m.)

Unnumbered Telegraphic [F 4756/1/10]

PEITAIHO, August 27, 1930, 6.40 p.m.

Following for Sir V. Wellesley.

My telegram unnumbered of August 27.¹

In some ways and from purely personal point of view I should like to postpone visit now to Nanking and take three weeks' holiday in Japan of which I have the offer. But my views as to the right policy are as stated in above telegram. If you dissent will you please telegraph urgently so that I may recast my programme and go to Japan.

¹ No. 301.

No. 303

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 259 Telegraphic [F 4756/1/10]

FOREIGN OFFICE, August 29, 1930, 5.15 p.m.

Following from Sir V. Wellesley:—

Your private telegram of August 27.¹

Please see my telegram No. 260.² I regret that you should lose opportunity of a holiday in Japan but I certainly agree that it is the right policy to proceed to Nanking.

¹ No. 302.

² No. 304.

No. 304

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 260 Telegraphic [F 4756/1/10]

FOREIGN OFFICE, *August 29, 1930, 5.30 p.m.*

Your telegram unnumbered of August 27.¹

I entirely concur in your views and consider that you should leave for the South on September 5, and present draft proposals in accordance with our declared intentions.

¹ No. 301.

No. 305

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received August 30, 6.0 p.m.)
No. 555 Telegraphic [F 4842/61/10]

PEKING, *August 30, 1930, 12.10 p.m.*

I had an intimate confidential conversation with the young Marshal¹ at Peitaiho on August 27 in the course of which the Marshal, who is now a centre of political interest in the North and who is besieged by representatives of Nanking Government and (? Shansi)² and re-organizationist and other factions, expressed the following views.

Yen was in the wrong in the present conflict. He should have confined himself to preservation of peace and order in his own domain and worked for reform of Nanking Government instead of resorting to force. Chiang had his faults being too dictatorial, ambitious and narrow but as he was in position of head of the State other Chinese leaders not of his views, instead of fighting against him, should in the national interest have co-operated with him and sought to improve and reform his administration by peaceful means. Of Feng the Marshal would say little except that he was generally feared because none knew what he would do next. Wang C. W.³ was an old acquaintance of the Marshal but he could not help mistrusting him and feared he remained open to subversive extremist influence.

The Marshal expressed strong disapproval of attempts of Northern Allies and re-organizationists to set up rival government in Peking. He also intimated in round about Chinese fashion that he thought that Yen was nearly finished and that the opportunity might soon arise for his co-operation to mediate and assist towards a settlement involving the elimination or reduction of Yen. And at the close of the conversation he made significant enquiry (after referring to possibility of his using his influence with Nanking to stop air bombing of Peking) as to what I should think if *he* took over control of Peking and Tientsin area.

¹ i.e. Marshal Chang Hsueh-liang.

² The text is here uncertain.

³ i.e. Mr. Wang Ching-wei.

I was favourably impressed with the Marshal's good sense and political sagacity and he seemed alert and well. In spite of his assertion that there was no truth in the press reports of his intention to call a conference or mediate in some form or other I gathered the impression that Yen had more or less appealed to him *in extremis* and that some move possibly connected with Chiang's alleged decision not to advance his troops across Yellow River is in the wind. The Marshal promised to keep in close touch with me and to inform me of any important developments whilst I was at Nanking.

Repeated to Tokyo, Shanghai, Nanking, Mr. Ingram, Commander-in-Chief, Hong Kong and Tientsin.

No. 306

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 269 Telegraphic [F 4869/103/10]

FOREIGN OFFICE, *September 4, 1930, 7.0 p.m.*

Your telegram No. 490.¹

I agree that repudiation of naval facilities is not a serious risk and that refusal at this stage to proceed with rendition, except for very grave and compelling reasons, would be politically dangerous besides involving serious administrative difficulties. In view of the fluid and uncertain character of Central Government control generally in China, His Majesty's Government would not be justified in placing too rigid an interpretation on the condition laid down on the signature of the agreement. Similarly any moral obligations they may have towards the Chinese inhabitants should be regarded as being discharged if rendition does not involve them in immediate civil war with neighbouring Chinese authorities.

In order to clarify the situation on these two points I suggest that you should immediately request the Chinese Government to furnish you with a detailed statement of the arrangements they contemplate making for taking over the territory and for establishing a stable administration; you should at the same time remind the Minister for Foreign Affairs of the condition referred to above and explain that if as a result of rendition Weihaiwei is likely to become an *enclave* in territory under the control of authorities hostile to the Nanking Government the latter would obviously be unable to take over the administration and that in that event if rendition is thus unavoidably postponed it must, for administrative reasons, be postponed for at least one year. The nature of Dr. Wang's reply and the political developments during the next few weeks should enable us to decide by the middle of September at latest whether to proceed with rendition or not.

¹ No. 294.

No. 307

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received September 5, 9.30 a.m.)
No. 576 Telegraphic [F 4953/1/10]

PEKING, September 5, 1930, 1.35 p.m.

Extraterritoriality.

United States Minister and I have discussed matter fully and I have explained my advice to you and my intentions and that on arrival in Nanking I shall with your authority be presenting draft of June 4 with inclusion in Article 9 of some formula covering exclusion from scope of agreement of Tientsin and Hankow as well as of Shanghai.

I have arranged with him to put in draft September 11 and in reporting this to State Department he is recommending that they should simultaneously hand draft to Chinese Chargé d'Affaires at Washington stating that it is in all important respects the same as draft we are handing in that day in Nanking. We both agree that it would be useful if Japan could be moved to take similar action at Tokyo and to make that recommendation to our respective Governments. He tells me that copy of June 4 draft was handed to Japanese Ambassador in Washington some time ago so that Japanese Government should be fully aware of contents.

We jointly handed a copy of draft to the Netherlands Minister and I am sending copies to the French Minister and Japanese Legation in Peking.

My United States colleague has seen this telegram.

Repeated to Tokyo.

No. 308

Mr. A. Henderson to Sir J. Tilley (Tokyo)
No. 95 Telegraphic [F 4953/1/10]

FOREIGN OFFICE, September 6, 1930, 6.30 p.m.

Peking telegram No. 576,¹ paragraph 2.

Please inform Japanese Government that His Majesty's Minister at Peking is submitting draft proposals to Chinese Minister for Foreign Affairs on September 11 and that United States Minister at Peking is recommending to his Government that they should simultaneously hand draft to Chinese Chargé d'Affaires at Washington. You should add that we should be glad if Japanese Government felt able to make a suitable communication to the Chinese Representatives in Tokyo on same date if the terms of the draft proposals meet with their general approval.

Repeated to Nanking No. 15 for Sir M. Lampson and Washington No. 418 to latter post with Peking telegram No. 576.

¹ No. 307.

Sir R. Lindsay (Washington) to Mr. A. Henderson

(Received September 7, 12.40 p.m.)

No. 300 Telegraphic [F 4998/1/10]

WASHINGTON, September 7, 1930, 12.45 a.m.

My telegram No. 299.¹

Dr. Hornbeck said he did not think that Japanese Government could possibly have . . .² before September 11 to consider draft treaty agreement and reach decision as to simultaneous presentation with His Majesty's Government and United States Government in accordance with suggestion of United States Minister in China and, he understood, of Sir M. Lampson.³ As to simultaneous presentation by United States Government he said you were aware he had urged that action should be deferred until after October 1.⁴ He complained in plain terms of the delay on our part in giving our views on this opinion of his and on suggestions as to procedure contained in his letter to Mr. Campbell of June 10⁵ and averred that we had not kept him punctually informed of developments on our side. For example until United States Embassy had enquired we had not informed him of our acceptance of June 4 draft and then only had said 'we were satisfied'. Moreover we had not told him of our insertion of demand for special treatment for Tientsin etc. similar to that for Shanghai though he had anticipated that we would make the demand and had no objection to it. Now at the beginning of September, only a few days before the date we proposed for the presentation of draft agreement, we informed him of suggested alteration of final paragraph of Article 10⁶ though June 4 draft had reached us at the end of June. He had kept his promise to keep us informed of developments on United States side as they occurred at our request: he did not feel that we had reciprocated. He felt there were too many channels of communication and too many places where consultation between the Powers was going on. He thought some better machinery should be devised.

¹ Not printed. This telegram reported a conversation between Dr. Hornbeck and Mr. Campbell on September 6, when Mr. Campbell was handed the re-draft of Article 10 of the draft agreement on extraterritoriality which is printed in *Foreign Relations of the United States* 1930, vol. ii, p. 463.

² The text is here uncertain.

³ See No. 307.

⁴ See No. 300, note 1.

⁵ See No. 279, note 3.

⁶ For the *aide-mémoire* of September 4 from the British Embassy at Washington to the State Department, see *ibid.*, vol. ii, pp. 459-62.

Record by Mr. Mounsey of a conversation with Mr. Atherton
 [F 5039/1/10]

FOREIGN OFFICE, September 8, 1930

The United States Chargé d'Affaires called on me this morning in order to read to me the text of an instruction which is being sent from the State Department to the U.S. Minister at Peking about extraterritoriality.

In this communication the State Department explain that for the reasons already given to us they would prefer to defer presentation of the extraterritoriality proposals to the Chinese Government until October. They consider moreover that the other interested Governments will not have been given sufficient time to consider our draft proposals by September 11, and consequently that they will not have issued the necessary instructions to their representatives at Peking by that date. In that event the United States Minister should also delay presenting his draft proposals. In the unlikely event of the other representatives acting with Sir Miles Lampson on that date Mr. Johnston [*sic*] may do so too: and a copy of the note will be handed to the Chinese Minister in Washington.

If on the other hand Sir Miles Lampson acts alone, on September 11, the State Department would be willing to tell the Chinese Minister in Washington that they agree with our proposals in substance, but they would delay actually presenting their note at Nanking.

I told Mr. Atherton that we were so far committed to the Chinese to open these negotiations early this month that we could not now postpone doing so; and Sir M. Lampson had so planned his visit that he would only remain at Nanking from September 8 to the end of this month. We would therefore welcome the action proposed by the State Department indicated above, as sufficiently indicating our solidarity.

Mr. Atherton will at once telegraph in the above sense to Washington.

I then read out to him Sir R. Lindsay's telegram No. 300¹ which I had just received, and told him also of the further telegram² which has reached us containing certain amendments to our last draft. I said I had had no time as yet to go into the points of complaint made by Dr. Hornbeck, but there was one part of his communication with which I was personally in complete accord. I felt convinced that there have been too many channels of communication, and that, where China is concerned, the only sound and safe one is that of our diplomatic representatives in that country. I was not familiar with the whole course of our negotiations about extraterritoriality in its present phase; but of one thing I felt quite sure: our object had been to harmonise our views with those of the United States Government, and we had gone out of our way, and probably incurred some mistrust or suspicion from other interested Powers in doing so; and the only result seemed to be

¹ No. 309.

² The reference is probably to Washington telegram No. 299: see No. 309, note 1.

that friction and misunderstanding had occurred in that quarter precisely from which we had set out to banish it.

I said that so far as I knew the object of both Governments was merely to agree on the broad lines of our attitude in this difficult question; and I failed to understand what need there was of insisting that either the texts or date of presentation of the proposals should coincide. On the contrary it seemed to me most undesirable to produce the impression on the Chinese of the abhorred 'united front'.

Mr. Atherton was, I think, a little taken aback at my remarks. He cordially agreed as to the multiplicity of channels of communication being a drawback; launched into a comforting disquisition on the great improvement in our inter-communications in regard to China since 1922-3, when Sir V. Wellesley went over to Washington, and then assured me that the State Department were only anxious to act with us in the present case; and that any signs of friction were wholly ephemeral and superficial.

He went on to say, as between ourselves, that the only thing that has really ruffled Washington was that their draft of June 4 remained so far as they were concerned 'in the air' until Mr. Atherton himself called here on instructions, on August 23 [213]³, to ascertain our views about it. He was then told that we agreed to it. Until Washington had received our views on this draft they regarded it as confidential, and it was only when Mr. Atherton telegraphed to them on August 25 the result of his conversation with Sir John Pratt here that they were made aware that we had adopted it in substitution of the Lampson-Johnston draft. He understood from Sir John Pratt that we had sent a telegram in July to our Embassy at Washington about the draft,⁴ but it contained no instructions to make any communication about our acceptance of the June 4th draft to the State Department.

I said I had not been able to study all the history of these discussions, which seemed to be very tangled, but we would go into Dr. Hornbeck's complaints and send some reply in due course; and I very much hoped that in doing so we would cordially endorse Dr. Hornbeck's observations about the channels of communication and express an undoubted preference for conducting all such negotiations exclusively through the medium of our Ministers in China.

³ See No. 296.

⁴ The reference is probably to No. 288, which was repeated to Washington on July 17 under cover of Foreign Office despatch No. 1048.

No. 311

Sir J. Tilley (Tokyo) to Mr. A. Henderson
(Received September 9, 1.50 p.m.)
No. 188 Telegraphic [F 5032/1/10]

TOKYO, September 9, 1930, 6.50 p.m.

My telegram No. 186.¹

Vice-Minister for Foreign Affairs was able to see Minister for Foreign Affairs today but the latter has not yet studied the draft of June 4, the department even not having finished examination. However he told me it was more conservative than their own ideas so that it was unlikely they would have any objection.

¹ Not printed.

No. 312

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received September 9, 6.45 p.m.)
No. 181 Tour: Telegraphic [F 5038/1/10]

NANKING, September 9, 1930, 7.35 p.m.

Extraterritoriality.

United States Minister at Peking has had telegram from State Department which on instructions he has repeated to me urging postponement of presentation of draft so as to give time to work for simultaneous presentation (if attainable) at Tokyo and elsewhere. In his reply to State Department United States Minister has explained that he understands my instructions are to send in ahead and that he does not regard postponement as now possible.¹

I have informed Minister that he interprets the position correctly and that unless I receive instructions to the contrary before September 11 I shall put draft in as arranged, on September 11.

Repeated to Peking and Tokyo.

¹ For these two telegrams see *Foreign Relations of the United States 1930*, vol. ii, pp. 464-5.

No. 313

Mr. A. Henderson to Sir M. Lampson (Nanking)
No. 18 Tour: Telegraphic [F 5039/1/10]

FOREIGN OFFICE, September 10, 1930, 4.20 p.m.

Your telegram No. 181.¹

Similar communication was made on 8th instant by United States Chargé d'Affaires in London, who added however that if you acted alone on Sep-

¹ No. 312.

tember 11 State Department would be willing to tell Chinese Representative in Washington that they agreed with our proposals in substance but would delay actually presenting their note at Nanking.²

It was explained that we were so far committed to the Chinese to open these negotiations that we could not now postpone doing so and that you had so planned your visit that you would only remain in Nanking from September 8 to the end of this month. We would therefore welcome the action proposed by State Department in the event of you[r] acting alone (see paragraph 1) as sufficiently indicating our solidarity. United States Chargé d'Affaires promised to telegraph at once in this sense to Washington.

There is thus no need for you to postpone presenting draft.

² For the Department of State's memorandum in this sense of September 12 to the Chinese Legation in Washington see *Foreign Relations of the United States 1930*, vol. ii, p. 467.

No. 314

Sir R. Lindsay (Washington) to Mr. A. Henderson
(Received September 11, 9.30 a.m.)
Unnumbered Telegraphic [F 5086/1/10]

WASHINGTON, September 10, 1930, 5.50 p.m.

My telegrams Nos. 300¹ and 299².

Position of United States Government as regards presentation of proposals on September 11 has been fully explained to you by United States Embassy in the last two days.

Acting head of Far Eastern Division handed to Counsellor this morning *aide-mémoire* stating that the Department of State had not yet arrived at final decision regarding His Majesty's Government's amendments to last paragraph of Article 10 and tentative counter amendments communicated by Far Eastern Division on September 6.³

¹ No. 309.

² Not printed. See No. 309, note 1.

³ See No. 309, notes 6 and 1.

No. 315

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received September 10, 4.20 p.m.)
No. 185 Tour: Telegraphic [F 5087/103/10]

NANKING, September 10, 1930, 6.20 p.m.

Weihaiwei.

On September 10 I read to Minister for Foreign Affairs paraphrase of relevant parts of your telegram No. 269¹ and requested detailed written

¹ No. 306.

statement of arrangements contemplated by Chinese Government for taking over territory etc.

2. Dr. Wang undertook to comply and furnish me as soon as possible with statement in writing. He maintained that there was no longer any question of Central Government control not being effective in Shantung and said that as regards administration Chinese Government intended to appoint a Special Commissioner or Governor who would administer territory as in the case of special municipalities directly under Executive Yuan of Central Government.

Repeated to Peking, Weihaiwei and Commander-in-Chief.

No. 316

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received September 11, 6.15 p.m.)

No. 187 Tour: Telegraphic [F 5101/103/10]

NANKING, September 11, 1930, 7.15 a.m.¹

My telegram No. 185. (Tour.)²

On September 11 Minister for Foreign Affairs handed me an *aide-mémoire* which reads as follows:—

Begins.

With reference to the arrangements contemplated by Chinese Government for taking over Weihaiwei and establishing an administration therein, about which His Britannic Majesty's Minister has enquired . . .³ the Minister for Foreign Affairs, it may be stated that National Government will appoint a High Commissioner who will be authorised to take over Weihaiwei and who will be entrusted with maintenance of an efficient administration in that district, to be assisted by a staff sufficient for the purpose. The High Commissioner will be directly responsible to the Executive Yuan. The Wai-chiaopu will send representative to Weihaiwei to assist High Commissioner in matters in connexion with the rendition. Necessary arrangements are also under preparation in accordance with terms of agreements signed the eighteenth of April last. The present police force in Weihaiwei will be augmented with a view to maintenance of peace and order in that district.

Ends.

I said I would ascertain at once whether His Majesty's Government considered this adequate.

Should you do so, am I now authorised to proceed in due course to exchange ratifications either in person before I leave here on September 24 or, if this is technically difficult, in view of date of rendition being October 1, through my representative here?

Repeated to Peking, Weihaiwei and Commander-in-Chief.

¹ This time is probably in error for 7.15 p.m. ² No. 315. ³ The text is here uncertain.

No. 317

*Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received September 11, 4.0 p.m.)*

No. 188 Tour: Telegraphic [F 5099/1/10]

NANKING, *September 11, 1930, 7.15 p.m.*

Your telegram No. 18 of tour.¹

I handed draft extraterritoriality treaty to Minister for Foreign Affairs September 11.

Repeated Peking, Tokyo, Shanghai, Canton, Hankow and Tientsin.

¹ No. 313.

No. 318

Mr. A. Henderson to Sir R. Lindsay (Washington)

No. 428 Telegraphic [F 4998/1/10]

FOREIGN OFFICE, *September 11, 1930, 10.0 p.m.*

Extraterritoriality.

I gather from your telegram No. 300¹ and from a confidential conversation with the United States Chargé d'Affaires here² that Dr. Hornbeck is chiefly put out because no definite reply was made to his letter of June 10 to Mr. Campbell and no comment on his draft of June 4 was communicated to him until the United States Chargé d'Affaires was instructed to call here on August 25 [*sic*].

You should at once explain to him that this omission is greatly regretted and due to the following sequence of circumstances.

When his letter of June 10 to Mr. Campbell was received and considered, it was apparent that, while certain divergences of opinion still existed (due either to differences between the degrees of importance attached by the respective departments to the various aspects of the problem of extraterritoriality, or to the dissimilarity on certain individual points of the two countries' interests), the State Department and ourselves were practically speaking in complete agreement as to the main lines along which agreement with the Chinese Government should be sought. At almost the same time, the Chinese Minister for Foreign Affairs pressed His Majesty's Minister to resume negotiations on this subject, and Dr. Wang's request was considered in conjunction with Dr. Hornbeck's letter, another factor requiring consideration being that Sir M. Lampson was committed to carrying out his declared intention of proceeding to Nanking early in September, when it would be impossible to evade discussion on this subject. We decided accord-

¹ No. 309.

² See No. 310.

ingly that those discussions should be renewed, and so informed His Majesty's Minister in China, and we believed that a suitable basis for them had been established in the form of the State Department's Revise up to June 4 of the draft proposals, which had been communicated to us through the United States Embassy in London, and also to the United States Minister in China, who was in touch with Sir M. Lampson.

In making this communication to our Minister at Peking we were adopting our usual course of consulting him at every stage of developments in any situation affecting China; and we really considered that from that point onwards the normal and natural channel of communication, viz. that between our respective diplomatic representatives on the spot, had been resumed. Our failure to apprise Washington of this view causes us to share all the more cordially Dr. Hornbeck's misgivings as to the unsatisfactory situation which may result from the adoption of more than one channel of communication between our two Governments in the discussion of matters relating to the Far East and we hope that he will agree with us that henceforth the channel of our two Ministers in China shall be the paramount one for all practical purposes.

We are very glad to learn from United States Embassy in London that the State Department are prepared to inform the Chinese Government that the draft proposals which Sir M. Lampson is to submit this week reflect their own general views, and we shall, of course, not expect the United States proposals whenever they are made to be word for word in conformity with our own. The misunderstanding has, therefore, we hope produced no important ill effects.

Repeated to Peking No. 279.

No. 319

Mr. A. Henderson to Sir R. Lindsay (Washington)

No. 430 Telegraphic [5086/1/10]

FOREIGN OFFICE, *September 12, 1930, 3.30 p.m.*

Your telegram unnumbered of 10th September.¹

Please express our thanks for *aide-mémoire* and add that our redraft of Article 10 was based on advice of other departments concerned which was not available until late in August. We shall be glad to have definitive text of State Department's redraft of this article when it is available and we shall not of course expect it to be necessarily identical with our own proposals.

¹ No. 314.

No. 320

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received November 5)
No. 122 Tour [F 6197/1/10]

NANKING, *September 12, 1930*

His Majesty's Minister, Nanking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs, and transmits herewith copy of the Minute of an interview dated September 11, 1930, regarding extraterritoriality and of the draft extraterritoriality notes handed to the Minister for Foreign Affairs on September 11.

ENCLOSURE 1 IN No. 320

Waichiaoou Interview of September 11, 1930

The Minister for Foreign Affairs, and Mr. Hsu Mo
H.M. Minister, and Mr. Teichman

Extraterritoriality

NANKING, *September 11, 1930*

Sir M. Lampson referred to the previous talks he had had with the M.F.A. in the Spring when he had mentioned that he hoped to be in a position about September to put in concrete proposals. This hope had been fulfilled, and he was now able to do so. Sir M. Lampson then handed in three copies of the draft Treaty and Protocol for the gradual abolition of Extraterritoriality, prefaced by an index which he explained had been prepared locally.

Sir M. Lampson added that these proposals had been approved by the Dominions, and thus represented the views of the Empire on the subject. There had been some rather strong criticism of the British Government going ahead at all at the present time, but they had felt that they were definitely committed to do so. It could not be denied that there was undoubtedly a critical atmosphere abroad. If Dr. Wang could take the draft as it stood, Sir M. Lampson was prepared to conclude the Treaty right away; otherwise of course there must necessarily be prolonged negotiations, though he did not mean to say that he would not be glad to receive and consider the M.F.A.'s views and in fact have a full discussion of all the points he might raise.

It being apparent that the document was too lengthy and involved to enable an immediate discussion to take place, Dr. Wang said that he would take it away and digest it with a view to discussing it later on. He only hoped it would not give him indigestion, though he saw one or two points in it even at a casual glance which he feared might prove difficult of assimilation.

E. T.

Summary of Draft Treaty covering Proposals for the Gradual Abolition of Extraterritoriality

Article 1. Transfer of jurisdiction in civil cases to Chinese courts; provisions in regard to lawyers, English translations of court proceedings, &c.

Article 2. Establishment in certain centres of special chambers in the high and district courts for dealing with foreign cases; employment in such chambers of foreign legal advisers.

Article 3. Guarantees in regard to taxation and the operation of the courts.

Article 4. Rights of evocation.

Article 5. Guarantees in regard to arrest and detention.

Article 6. Reservation of personal status matters.

Article 7. Provision for arbitration.

Article 8. Guarantees in regard to the non-disturbance of titles to real property.

Article 9. Reservation of Settlements and Concessions and areas round certain ports.

Article 10. Guarantees in regard to the immunity of British subjects, and their property and shipping, from illegal searches, expropriations and requisitions.

Article 11. Rights and privileges of British business organisations.

Article 12. Understanding regarding pending cases, &c.

Article 13. Rights of residence and trade.

Article 14. Guarantees against discriminatory treatment.

Article 15. Provisions of existing treaties, except as modified, to remain in operation.

Article 16. Treatment of British-protected persons.

Article 17. Ratification, duration and revision; extension of jurisdiction in other than civil cases to be given later consideration.

Attached Protocol. Communication to British representative in China of Chinese codes; immediate application, as far as practicable, of such codes, &c., in British courts in China. Ratifications of treaty to be exchanged one year after the promulgation, enforcement, and communication of the principal codes, provided the Chinese Government shall have demonstrated its ability to give effect throughout China to the terms of the treaty. Provision for the determination of the territorial jurisdiction of the courts referred to in Article 2 of the treaty.

His Britannic Majesty having declared his willingness that January 1, 1930, should be regarded as the date upon which the process of gradual abolition of the extraterritorial rights of British subjects in China shall have in principle commenced, the President of the National Government of the Republic of China and His Britannic Majesty, being desirous of concluding a treaty for the purpose of regulating this process, have appointed as their plenipotentiaries who having have agreed as follows.

Article 1. Transfer of Jurisdiction

Except in criminal cases other than minor offences indicated below and as otherwise provided by this agreement, British subjects in China will as from the date of the exchange of ratifications of this agreement be subject to the jurisdiction of the modern Chinese law courts, with rights of appeal and in all other respects in accordance with the modern Chinese codes of law and procedure. They shall not, however, be subject to the jurisdiction of the police courts, except in the case of minor offences not punishable by detention or imprisonment or fines exceeding 10 dollars, nor to the jurisdiction of the magistrates' courts, nor to that of military courts or courts or tribunals of any kind other than the regular modern law courts of China. From the inception of all such civil proceedings until the conclusion thereof, including the hearing of all cases in court, as well as preliminary investigations or examinations of whatever nature, the assistance of duly qualified British or other foreign or Chinese lawyers and interpreters will be permitted, it being understood that no technical difficulties will be placed in the way of such representation on the part of any foreign lawyer resident in China and in good standing selected by the parties to the action; it being further understood that the lawyer concerned shall have all the rights and privileges accorded to a Chinese lawyer in similar circumstances.

Hearings shall be in the Chinese language, but the court shall take measures to ensure that such English and Chinese translations are made during hearings, and later, as may be necessary for an understanding of the proceedings by all parties to the case, and their representatives.

British subjects parties to a suit or persons authorised by them shall, upon payment of the usual official fees for such copy, have the right to obtain, in both Chinese and/or English, certified copies of the evidence and judgment in such suit.

Article 2. Establishment of Special Chambers in the High and District Courts

In the district courts in Harbin, Mukden, Peiping, Tientsin, Tsingtao, Shanghai, Nanking, Hankow, Chungking, Canton, Foochow and Yunnanfu, and in the high courts having appellate jurisdiction over such district courts, with the exception of the Supreme Court, special chambers shall be established for dealing with civil cases in which a British subject is the defendant. All civil cases involving British subjects as defendants, wherever resident, except when they may be taken to the Supreme Court on final appeal, or when a British subject concerned may elect, in writing, to submit himself to the jurisdiction of the local (modern) court having jurisdiction over purely Chinese cases of a similar nature, shall be tried only before these special chambers, which will also hear cases in which British subjects are involved as plaintiffs or complainants originating within the ordinary jurisdiction of the courts to which the special chambers are attached.

The chief judge of a special chamber shall be the president of the court to which the chamber belongs. Other judges of the special chamber, as well as

its procurators, shall be selected from among legal scholars with thorough training and lengthy practical experience, and with a broad knowledge of the general concepts of Western legal codes and procedure. Their names, ranks and salaries shall be made known to the public, and they shall not be removed from office without cause being publicly shown. To each special chamber there shall be attached legal advisers, who shall be selected by the Chinese Government from a list of foreign jurists nominated by The Hague Permanent Court of International Justice, and appointed in accordance with the conditions of service and salary recommended by the said Court. Such legal advisers shall remain in office for a specified term unless dismissed for cause publicly shown, and shall otherwise receive the consideration and respect due to the dignity of their office. It is understood that a legal adviser need not permanently reside at the place in which the special chamber of the district court to which he is assigned is established, and furthermore that there shall be a thoroughly flexible and practicable system of administration of assignments, in order to ensure efficiency and economy in the employment of the said legal advisers. As far as may be practicable, a legal adviser of British nationality shall officiate at the trial of cases involving British subjects as defendants.

In cases in which British subjects are plaintiffs or complainants or defendants the legal advisers shall observe the working of the special chambers of the district courts and high courts in question, and shall have access to the files of the proceedings. The legal advisers may present their views to the judges, who shall give due consideration to the views thus expressed by the legal advisers. It shall be the duty of the legal advisers to forward to the Minister of Justice such reports as they may consider necessary, and copies of these reports in cases concerning British subjects shall simultaneously and immediately be forwarded by the legal advisers to His Britannic Majesty's representative in China. The legal advisers shall be authorised to receive complaints to which the administration of justice may give rise, with a view to bringing such complaints to the notice of the Minister of Justice in order to ensure the strict observance of the provisions of Chinese law. Similarly, the legal advisers shall be authorised to receive any other complaints, including such as may be caused by domiciliary visits, requisitions or arrests, &c. In all cases in which British subjects are involved as defendants a legal adviser shall sit as one of the judges hearing the cases in both the district and high courts, and the concurrence of the legal adviser to any judgment or order shall be necessary for its validity.

The special chambers above referred to shall be established and the legal advisers shall be appointed and installed in office before the exchange of ratifications of this agreement.

Article 3. Guarantees in regard to Taxation and the Operation of Courts

With regard to the transfer of jurisdiction over British subjects in China from the British to the Chinese courts, the President of the National Government of the Republic of China declares as follows:—

- (a) That British subjects shall be liable for the payment of such non-discriminatory Chinese taxation only as is actually paid by all nationals of China and is authorised under the legally enacted and duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China, the texts and the translations of which shall first have been communicated to His Britannic Majesty's representative in China;
- (b) That British subjects shall be protected against all illegal taxation and irregular exactions and against all exactions sought to be enforced without due process of law;
- (c) That municipal taxation shall be enforced against British subjects only in accordance with duly authorised municipal regulations sanctioned by the Central Government of China, and that the proceeds of such municipal taxation shall only be expended on relevant purposes within the municipal areas in question, and that British subjects shall be protected against unfair or oppressive taxation or methods of assessing or levying such taxation;
- (d) That tax agreements entered into with British subjects in their several capacities as merchants, firms, partnerships or companies will be duly respected;
- (e) That the Chinese courts shall ensure to the persons and property of British subjects due protection in accordance with international law and the general practice of nations; and
- (f) That the Chinese courts assuming jurisdiction over British subjects shall be kept strictly immune from administrative or other interference by any military or non-judicial authority.

Article 4. Rights of Evocation

His Britannic Majesty, through his diplomatic or consular officers in China, whenever in his discretion he deems it¹ proper so to do in the interest of justice or as a result of a violation of any of the provisions of this agreement, express or implied, may, by means of a written requisition addressed to the competent Chinese authorities, including the judge or judges of the court concerned, evoke any case pending in any Chinese court in which a British subject is defendant. A case so evoked shall be transferred forthwith to the competent authorities of His Britannic Majesty for adjudication, and Chinese jurisdiction in the case will cease. The Chinese authorities shall lend any assistance requested by the authorities of His Britannic Majesty in dealing with evoked cases. In evoked cases the rights and liabilities of the parties shall be determined by Chinese laws so far as they have been regularly promulgated and enforced and communicated to His Britannic Majesty's representative in China.

¹ A pencilled note on the file copy here read: 'whenever in their discretion they deem it'.

Article 5. Arrest and Detention²

British subjects may not be arrested, detained or imprisoned except when taken in the act of a misdemeanour or crime, in which case, if the act is punishable by a fine of more than ten dollars or by detention or imprisonment, the person so taken shall, within twenty-four hours after arrest, be handed over to the nearest British consular or other British judicial authority for appropriate action.

Article 6. Reservation of Personal Status Matters

British subjects in China shall not be amenable to Chinese jurisdiction in any matters of personal status, among which are included all questions relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship and interdiction, and in all matters relating to succession to personality, whether by will or on intestacy, and to the distribution and winding up of estates and family law in general.

Article 7. Arbitration

The Chinese courts will recognise agreements entered into by British subjects between one another and with other foreign nationals and with nationals of China for the settlement of civil or commercial controversies by arbitration, and will enforce awards made in pursuance thereof unless contrary to public order or good morals.

Article 8. Titles to Real Property

The President of the National Government of the Republic of China agrees that titles to real property held by British subjects in China shall be regarded as indefeasible and shall remain undisturbed by the provisions of this agreement. All legal Chinese land transfer fees leviable under regular Chinese legislation as provided in Article 3 shall, where properly payable under such legislation, be paid by British subjects on account of land transactions in the future. But no demands shall be made by the Chinese authorities for the payment of such land transfer fees on transfers of land to or from British subjects in the past, and titles to land held by British subjects shall not be called in question on account of non-payment of such transfer fees in the past. Title to property held by British subjects shall likewise not be questioned other than when fraud is proved as a result of due process of law.

Article 9. Reservation of Settlements and Concessions

It is understood that this agreement shall not apply in areas where, on the basis of agreements between China and any other Power or Powers, Chinese administrative jurisdiction does not apply. It is, furthermore, understood

² A pencilled note on the file copy here read: 'Arrest, detention and trial'.

that this agreement shall not apply within a radius of 50 *li* from the present Customs house at Shanghai, nor within a radius of 30 *li* from the present Customs houses at Canton and Hankow, nor within a radius of 30 *li* from the present Customs house at Tientsin and 10 *li* from the present Customs lookout at Tangku together with the course of the Haiho between those points.

Article 10. Immunity of British Subjects and their Property and Shipping from any and all Illegal Searches, Expropriations and Requisitions

The public buildings and private residences of British subjects in China and their warehouses and business premises and factories, together with all their accessories, articles and properties, shall be respected, and shall not be subjected to any requisition, search or inspection, and the books and correspondence relating to their commercial transactions shall not be examined except as specifically provided for in non-discriminatory legislation legally enacted and duly promulgated, and as a result of due legal process. In no event shall premises occupied by British subjects be forcibly entered, except upon a warrant formally issued by a modern law court specifically citing, by title and section, the law under which action is authorised; and the section of the Chinese code relating to domiciliary searches by procurators without court processes shall not apply to such premises. British subjects in China shall not be subjected, directly or indirectly, to any form of military service or to any tax or levy imposed as a substitute for military service, or to military requisitions or contributions of any kind, nor shall they be compelled to subscribe, directly or indirectly, to any public loan or to any other form of forced levy.

The property of British subjects in China may not be expropriated, nor may the use of it be denied to its owners, even temporarily, except for reasons of public interest, recognised by law as such in the form of a court order emanating from one of the modern courts, in which special chambers have been established in accordance with Article 2 of this agreement. No expropriations shall be made without previous public notice, and in return for fair compensation to be paid in advance. The use of the property of British subjects may not be denied to them, even temporarily, except in return for fair compensation to be paid in advance.

British commercial vessels in Chinese ports or coastal waters or rivers will, as heretofore, comply with such regulations as may be reasonably necessary for the prevention of fraud or smuggling. They will not, however, be subject to any form of commandeering or requisition, nor will such vessels be inspected, searched, boarded, or subjected to any kind of restraint by Chinese military or other armed authority, except by agreement with the captain of the vessel. They may not be boarded by Chinese police, nor may any person, subject to the criminal jurisdiction of the Chinese courts, be arrested on board any such vessel, except upon a warrant formally issued by a modern law court, citing specifically by title and section the law under which action is authorised. In the absence of such a warrant, the Chinese police may only

board the vessel by agreement with the captain. British commercial vessels will not be compelled to carry Chinese troops, whether armed or unarmed, or Chinese military supplies. In general, the treatment accorded to British commercial vessels shall be in conformity with that accorded under recognised international practice by maritime nations to the vessels of other countries in their ports and territorial waters.

Article 11. Treatment to be accorded to British Business Organisations

Companies, firms, partnerships and corporations, incorporated or organised in accordance with the laws of His Britannic Majesty and operating in China, shall be entitled to all the rights and privileges enjoyed by British subjects under this agreement, including the rights enjoyed in Chinese courts, whether as plaintiffs, complainants or defendants. It is understood that such companies, firms, partnerships or corporations and their branches, agencies or representatives shall not be subject to discriminatory treatment and³ shall only be taxed in proportion to the amount of capital actually employed in China, or in respect of the profits and revenues which they have actually earned in China.

Article 12. Understanding regarding Pending Cases

After the transfer of civil jurisdiction over British subjects in China from British courts to Chinese courts, as provided for in this agreement, suits terminated in such British courts shall not be reopened; judgments previously rendered by such British courts shall be executed in any part of China by the Chinese judicial authorities; suits pending in such British courts at the time of the exchange of ratifications of this agreement shall continue until judgment is pronounced in the said courts, the jurisdiction of which shall remain in full force for this purpose; and the Chinese authorities will lend any assistance requested by His Britannic Majesty's authorities in this connexion.

Article 13. Rights of Residence and Trade

It is understood that as from the date of exchange of ratifications of this agreement British subjects shall enjoy the right without restriction to reside, travel, trade and own property throughout China.

Article 14. Non-discriminatory Treatment for British Subjects

In all matters for which this agreement provides, British subjects shall enjoy all exemptions from Chinese jurisdiction which may be enjoyed by the nationals of any other country, and shall be subjected to no discriminatory treatment in regard to taxation, judicial, or any other matters concerned, as compared with nationals of China or the nationals of any other country.

³ The words 'legal persons' were here inserted in pencil on the file copy.

Article 15. Provisions of Existing Treaties to Remain in Force

Except as modified in this agreement, the existing treaties in force between the High Contracting Parties shall remain in operation.

Article 16. British Protected Persons

In the present treaty the expression 'British subjects' shall be deemed to include British protected persons.

Article 17. Ratification and Duration

This agreement shall come into force upon exchange of ratifications and shall thereupon be mutually and reciprocally binding for a period of ten years, at the end of which period the agreement may, in response to the demand of either party made six months prior to the expiration of the period, be revised by negotiation between the parties thereto. Should neither party demand such revision of the agreement, it shall continue in full force for an additional period of five years, at the expiration of which term the same privileges of revision by mutual consent after demand and negotiation shall apply, and likewise at the expiration of every successive term of five years.

After a period of not less than five years from the date of ratification of this agreement, in which period the workings of the special courts trying civil cases involving British subjects have been carefully observed, especially in reference to the demonstrated freedom of the courts from administrative interference by the military and/or other non-judicial authorities, the matter of the extension of Chinese jurisdiction over British subjects in other than civil cases shall receive further consideration, the action to be taken in this regard to be determined in the light of experience of the actual working out of the present provisions regarding civil cases.

Protocol

At the time of signing the treaty of today's date providing for the gradual abolition of extraterritoriality the undersigned plenipotentiaries declare being duly authorised to this effect, that they⁴ have agreed as follows:—

1. With a view to enabling British subjects during the period of transition to familiarise themselves with Chinese law and judicial procedure, the Chinese Government will immediately communicate to His Britannic Majesty's representative in China all Chinese codes actually promulgated and enforced, together with the authorised translations thereof. His Britannic Majesty will forthwith take steps towards applying as far as practicable in his courts in China all such Chinese laws, ordinances and regulations, not including, however, the Chinese laws of procedure, whether civil or criminal, as shall have been promulgated and enforced and communicated with translations to his representative in China.

⁴ An alternative wording in pencil on the file copy here read: 'plenipotentiaries declare that being duly authorised to this effect they'.

2. Ratifications of the above-mentioned treaty shall be exchanged on the expiration of one year after the date upon which the Chinese Government shall have promulgated and actually put into operation all the principal codes in conformity with modern concepts of jurisdiction, and shall have communicated the texts thereof, together with the authorised translations thereof, to His Majesty's representative in China; provided that the Chinese Government shall have demonstrated its ability to give effect throughout China to the terms of the treaty.

3. The territorial jurisdiction of the courts referred to in Article 2 of the treaty shall be determined in accordance with the practicability of access by a subsequent agreement concluded before the exchange of ratifications.

No. 321

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 26 Tour: Telegraphic [F 5134/103/10]

FOREIGN OFFICE, *September 17, 1930, 3.5 p.m.*

Your telegram No. 187.¹

You are authorised to proceed in due course to exchange of ratifications on October 1.²

¹ No. 316.

² This telegram crossed Sir M. Lampson's telegram No. 204 Tour which stated: 'Minister for Foreign Affairs again on September 17 pressed for decision regarding Weihaiwei pointing out that time was getting very short and various preliminary decisions must necessarily be made.'

No. 322

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received October 16)

No. 149 Tour [F 5754/1/10]

NANKING, *September 19, 1930*

His Majesty's Minister, Peking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs, and transmits herewith copies of a record of an interview regarding Extraterritoriality with the Minister for Foreign Affairs on September 17, 1930.

ENCLOSURE IN NO. 322

NANKING, *September 17, 1930*

I had a confidential talk with Dr. Wang alone this afternoon before taking up the more general items on the agenda for the day. . . .¹

Dr. Wang then said that he on his side had one matter which he would prefer to speak to me privately about before Mr. Teichman and Mr. Hsu

¹ Punctuation as in the original.

Mo joined us, namely, our Extraterritoriality draft. He must frankly confess that our proposals had come as a great disappointment to his Government. The matter had been before the Political Council and the Foreign Affairs Committee, and it had now been decided that he, Dr. Wang, and Dr. Wang Chung-hui should form a committee of two to handle this matter. They had been going through the draft, and found a great deal in it which they could not possibly accept. The first thing that struck them was that we had gone backwards in some respects on what we had already done. For instance, we had incorporated in our scheme a provision that in cases brought by British subjects as plaintiffs foreign co-judges should sit. That was a backward step. Again, there was to be no question of the surrender of criminal jurisdiction for five years, whereas according to the Chinese argument all existing treaties would by then have long ceased. We were therefore perpetuating something which would otherwise have ceased to exist. Again, our claim that in return for very little the interior should be thrown open for residence and trade was quite inadmissible; that would only come when all foreign jurisdiction ceased. Further, we sought to exclude all the more important areas in China from the operation of any cession of jurisdiction that we gave up. That was difficult to swallow and indeed inadmissible. He made one or two other points, but I have not got them in my mind; and it matters the less as he concluded by saying that in a day or two a paper would be put in to me giving their formal comment on our draft.

I contented myself with saying that I thought he, Dr. Wang, was himself to some extent responsible for the stiffening of our terms. He would remember all that had passed regarding his 'hypothetical question' of last Spring. How he had gone back on what he had then offered: naturally that had its repercussion in London and had stiffened our attitude considerably. To my mind it was a great pity that he had withdrawn from the attitude which he at one time seemed inclined to adopt. Dr. Wang contented himself with saying that his suggestion of that time had been definitely turned down by his legal colleagues. As it was clearly no use discussing the matter further, the conversation ended with the repetition of a promise by Dr. Wang to let me have in the next few days a memorandum or formal counter-draft containing the Chinese comment on our scheme.

M. W. L.

No. 323

Sir J. Tilley (Tokyo) to Mr. A. Henderson (Received October 27)

No. 479 [F 5987/61/10]

TOKYO, September 20, 1930

Sir,

At an entertainment given last night for the Statistical Congress now meeting in Tokyo, the Commercial Counsellor of this Embassy had a conversation with the Vice-Minister for Foreign Affairs, who opened by

referring to the Economic Mission,¹ but seemed rather anxious to discuss it in relation to the Chinese question in general.

2. Mr. Yoshida started by repeating what he had said a few days before, namely that the Economic Mission might find it possible to make some arrangement with Japanese commercial leaders which would diminish competition between England and Japan in China. From this starting point he proceeded to discourse on the subject of Anglo-Japanese cooperation in China. He said that it was he who had been responsible for sending Count Uchida to England in 1928,² but that the visit had been fruitless because the officials in the Foreign Office in London had been opposed to the idea of cooperation, and had replied: 'Make concrete proposals, and then we will see if we can cooperate.'

3. Mr. Sansom observed that this seemed a reasonable reply, since vague assurances of good-will were useless; but Mr. Yoshida said: 'If you had expressed a general willingness to cooperate,³ we should have produced concrete proposals.' He went on to say that recently we had asked the Japanese to cooperate with us at Hankow,⁴ and now he thought a further chance of cooperation in a concrete issue was afforded by the visit of the Economic Mission. He enlarged on recent events in China, and made some suggestions about joint bargaining with Chiang Kai-shek, who, he said, was at the end of his financial resources. He seemed vaguely to propose that England and Japan—he included America for the sake of correctness—should lend money to Nanking; but the Commercial Counsellor gained the impression that his real object was to make the visit of the Mission an excuse for renewing the abortive conversations of Count Uchida. The Finance Minister spoke to Mr. Sansom the same evening about the Mission, and expressed hopes that the Mission would be able to reach some understanding about Anglo-Japanese competition in trade with China, but he was not at all sure that it was feasible.

4. I do not myself see how it is possible to go any further in the direction suggested by Mr. Yoshida unless one side or other makes some definite proposal. I have myself attempted at different times, but without success, to elicit something definite. Whether this can be done as regards cotton, for instance, I do not know, but in the political sphere, as I have frequently said, a plan of cooperation, as distinct from cooperation on individual issues, is almost impracticable when it is a question of making and not demanding concessions and definite resistance although possibly contemplated by Japan is hardly contemplated by us. Cooperation with Japan in such a matter as

¹ The British Economic Mission to the Far East had been appointed to enquire into the condition of British trade with China and Japan, and to report what action should be taken to develop and increase that trade. The Mission left London in September 1930. For its report of February 1931 see *The China Year Book 1932* (Shanghai, 1932), pp. 189-93.

² See Introduction.

³ A marginal note in Mr. Orde's writing reads: 'We did!'

⁴ His Majesty's Government had, at the beginning of August, requested the co-operation of the French, Japanese, and United States Governments in protecting foreign interests at Hankow in view of a threatened Communist attack.

extraterritoriality certainly seemed desirable but I gather⁵ that His Majesty's Government have decided against its continuance. As indicated in my telegram No. 188,⁶ the Japanese Government seem to intend to go further than we do, and were surprised at our conservatism. Whether they could have been persuaded to join with us, I cannot say, but if they go further than His Majesty's Government we shall be in great danger of having to follow suit. With regard to cooperation in the defence of life and property, Japan refused to send troops to Shanghai, leaving the burden to us, but at Hankow, when no question of an expedition was involved, she was quite ready to join with us. I have always felt indeed that general cooperation with Japan, not taking the form of an alliance, or a definite convention, would break down when our serious interests diverged, while an alliance or even a convention must rest ultimately on the use of force.

I have, &c.,
JOHN TILLEY

⁵ A marginal note by Mr. Orde here reads: 'from what?'.

⁶ No. 311.

No. 324

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received September 22, 5.0 p.m.)

No. 215 Tour: Telegraphic [F 5318/103/10]

NANKING, September 22, 1930, 5.50 p.m.

Weihaiwei.

On September 22 I arranged with Minister for Foreign Affairs details for procedure of ratification and rendition.

2. Mr. Ingram, or if he is not back in Nanking, Mr. Hewlett will exchange ratifications and sign certificate on my behalf at 9 a.m. on October 1.

A wireless message to that effect will be sent to Weihaiwei but whether or not it arrives in time, rendition ceremony as arranged by Commander-in-Chief and Commissioner, will begin at 10.30 a.m. the same day. I communicated copy of programme of proposed rendition ceremony, as communicated by the Commander-in-Chief, to the Minister for Foreign Affairs who expressed his concurrence.

3. In reply to my enquiry the Minister for Foreign Affairs said he hoped to be able to communicate to me the name of the Chinese Administrator before I leave as well as proposed arrangements for the presence of Chinese men-of-war and date of arrival of Chinese representatives with whom the Commissioner could concert details.

4. I took the opportunity to express earnest hope that the Chinese Government would make the new administration a success and generally justify the action of His Majesty's Government in renditing the territory. He made suitable reply and formally expressed, on behalf of his Government,

high appreciation of our action which he hoped would give a lead to other nations.

5. The only outstanding question is that of the supply of 200 rifles and 50,000 rounds of ammunition which Commander-in-Chief after consulting the Commissioner, General Officer Commanding and myself, has agreed to furnish for increased police force of the new Chinese administration. Minister for Foreign Affairs promises to let me know as soon as possible whether his Government will buy on terms offered which include payment in cash or the equivalent.

Repeated to Commander-in-Chief, Weihaiwei and Peking.

No. 325

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received September 23, 9.0 a.m.)

No. 216 Tour: Telegraphic [F 5336/1/10]

NANKING, September 23, 1930, 11.50 a.m.

Extraterritoriality.

On September 22 Minister for Foreign Affairs enquired when I should be returning to take up question of extraterritoriality which he thought had better be handled directly between us and not through representatives. I said I must await considered comments of Chinese Government on our draft which I understood were in course of preparation. They would then have to be sent home and considered by His Majesty's Government and matter was obviously one that would take much time. He enquired whether this could be done by telegraph. I replied that it was most unlikely though it depended to some extent on the nature of Chinese comments.

I have already received in private conversations with Minister for Foreign Affairs and Wang Chung-hui their personal reactions namely that they are disappointed with nature of our proposals which they regard as overloaded with safeguards. Records of conversations¹ go by bag.

Repeated to Peking and Tokyo.

¹ See No. 322.

No. 326

Mr. Aveling (Peking) to Mr. A. Henderson
(Received September 23, 10.55 a.m.)

No. 599 Telegraphic [F 5334/2449/10]

PEKING, September 23, 1930, 3.30 p.m.

Following received from Tientsin No. 79 of September 22.

Former Commissioner¹ resumed control of native customs yesterday.

¹ i.e. Mr. Grierson, the former Deputy Commissioner of Customs at Tientsin.

Position as regards maritime customs is that Mukden policy² has not yet been made public and French Consul in whose Concession custom-house stands informed Acting Commissioner that until he received a notification from *de facto* authorities that they did not recognise Simpson he would continue to support latter in retaining possession of customs. Until Mukden civil officials assume office apparently no change need be anticipated and whether Chang will so definitely declare himself on Nanking's side remains to be seen.³

² i.e. the policy of Marshal Chang Hsueh-liang whose troops had occupied the Tientsin and Peking areas.

³ Subsequently, on October 3, following the shooting of Mr. Lenox Simpson by Chinese assailants on October 1, Mr. Grierson resumed charge of the Maritime Customs House on behalf of the Inspector-General of Customs.

No. 327

Mr. Aveling (Peking) to Mr. A. Henderson

(Received October 2, 11.5 a.m.)

No. 608 Telegraphic [F 5478/103/10]

PEKING, October 2, 1930, 4.25 p.m.

Following received from Weihaiwei No. 1, October 1.

Rendition ceremony proceeded successfully according to programme. Commissioner left on H.M.S. 'Sandwich' about noon. Chinese High Commissioner was instituted into office by Vice-Minister for Foreign Affairs at Government House at 2.30 p.m.

I¹ attended ceremony by invitation of High Commissioner. I have opened Consulate and assumed charge.

¹ i.e. Mr. H. A. F. B. Archer, H.M. Acting Consul at Weihaiwei from October 1, 1930.

No. 328

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 875 [F 5596/103/10]

FOREIGN OFFICE, October 13, 1930

Sir,

The Chinese Minister called at the Foreign Office on the 2nd October and informed Sir V. Wellesley that he had received instructions from Dr. C. T. Wang to convey to His Majesty's Government the grateful thanks of the Chinese Government for the fulfilment of their promises as regards the rendition of Weihaiwei.

2. Sir V. Wellesley expressed thanks on my behalf to Dr. Sze for this message.

I am, &c.,

ARTHUR HENDERSON

No. 329

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 878 [F 5642/1/10]

FOREIGN OFFICE, *October 14, 1930*

Sir,

I transmit to you, herewith, copies of two Notes which I addressed to the French Ambassador in London on the 30th September and the 8th instant respectively,¹ relative to the proposals which you handed to the Chinese Minister for Foreign Affairs on the 11th ultimo on the subject of extra-territoriality in China.

2. Monsieur de Fleuriau called at the Foreign Office on the 9th instant with reference to these communications and informed Sir Victor Wellesley that he had not yet referred the matter to his Government but was able to give me an immediate answer on two points. In the first place His Excellency knew that the French Government did not intend to put forward proposals to the Chinese Government but would leave it to the latter to take the first step: and, secondly, he felt sure that they would not agree with His Majesty's Government's proposals on all particulars.

3. Sir Victor Wellesley thanked Monsieur de Fleuriau for this interim reply, of which he took note.

I am, &c.,

ARTHUR HENDERSON

¹ Not printed. Cf. below.

No. 330

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received October 31, 11.10 a.m.)

No. 672 Telegraphic [F 6115/1/10]

PEKING, *October 31, 1930, 4.45 p.m.*

United States Minister tells me State Department presented extraterritoriality draft¹ to Chinese Minister at Washington on October 28. He is communicating as soon as possible minor amendments inserted in it. There was no discussion with Chinese Minister.

On instructions he is leaving for the South and will hand copy to Minister for Foreign Affairs but is not authorised to negotiate upon it.

Press reports Chinese Minister is insisting on leaving Washington for Nanking on the ground that no progress on extraterritoriality is possible at present. United States Minister has repeated this to his Government.

He gathers from Belgian Minister who is just back from Nanking that Chinese regard our draft as impossible as basis for negotiations and there seems some inclination to let matters drag on until expiration of our treaties,

¹ Printed in *Foreign Relations of the United States 1930*, vol. ii, pp. 472-80.

Chinese contention being that our draft would in fact prolong extraterritorial rights beyond date when they would naturally terminate under these treaties.² This tallies with a casual remark made to me by the Minister for Foreign Affairs in September.

United States Minister expects to remain South about one month. He is characteristically pessimistic about the situation and hears much confirmation regarding reported split between the President, the Minister of Finance and Minister for Foreign Affairs on one side and Hu Han-min, Tai Chi-tao³ and other party leaders on the other. He even regards the possibility of serious trouble at Nanking on or about November 12 as so serious that he has obtained discretion from State Department not to go there if he deems it inopportune.

Though he does not say so explicitly it is pretty clear that his views regarding transfer of his Legation to Shanghai have undergone considerable modifications.

We have arranged to keep in close touch during his absence.

Repeated to Nanking and Mr. Ingram.

² A marginal note in Mr. Orde's writing here reads: 'they don't!'

³ President of the Examination Yuan.

No. 331

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received November 17, 9.0 a.m.)

No. 229 Tour: Telegraphic [F 6496/61/10]

NANKING, November 17, 1930, 1.30 p.m.

Extraterritoriality.

Minister for Foreign Affairs tells me that Chinese Government have prepared counter scheme which is now on its way to Washington for presentation to United States Government. As soon as he hears that it has arrived he will communicate it to me also—probably in about ten days time.

2. He hopes that we may be able to dispose of Hankow, Kiukiang leases questions¹ during the present visit. I told him that we might perhaps also be able to sign Hong Kong customs agreement² which was now before you for approval; he said that he was quite agreeable.

¹ The question of land tenure at the former British Concessions at Hankow and Kiukiang had not been covered by the Chen-O'Malley Agreement of 1927 (see Introduction, note 15). After some negotiation between Dr. Wang and Sir M. Lampson, it was agreed in December 1930 that crown leases should be exchanged for Chinese deeds of perpetual lease.

² A draft agreement between His Majesty's Government and the Chinese Government had been negotiated by the Governor of Hong Kong and Mr. Maze, the Inspector-General of the Chinese Maritime Customs, and was submitted to the two Governments for approval in October 1930. The draft agreement, which provided for co-operation between Hong Kong and Chinese customs officials in the prevention of smuggling and the collection of duties, was in November 1930 rejected by the Chinese Central Executive Committee at Nanking on the grounds that it would damage the interests of Canton.

3. Speaking confidentially he said that the President would himself shortly conduct a campaign against Red bands. Troops were already being assembled for that purpose.

4. He claims that visit of Young Marshal³ has been a complete success and that great harmony reigns.

5. He was disappointed at the firmness of declarations and note on debts (see my telegram No. 230⁴) but admitted that notice had been far too short. I warned him that we should certainly want several months in which to prepare and analyse our claims if serious business were intended. He assured me that there was no desire to rush us. Meantime Debt Commission would meet again in a fortnight's time.

Repeated to Peking.

³ Marshal Chang Hsueh-liang had left Mukden on November 7 for a three weeks visit to Nanking.

⁴ Not printed. This telegram referred to the inconclusive conference held at Nanking on November 15 between the Chinese Government and representatives of creditor nations.

No. 332

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received November 21, 5.50 p.m.)

No. 242 Tour: Telegraphic [F 6662/1/10]

NANKING, November 21, 1930, 6.0 p.m.

My telegram No. 229 on tour.¹

Minister for Foreign Affairs raised question of extraterritoriality with me on November 20. He said he desired to make certain preliminary observations to facilitate our consideration of formal Chinese counterdraft which he hoped to be able to present in a week or so's time. These observations which turned out to be a preliminary statement of principal points in our plan which were unacceptable to Chinese Government were (in summary) as follows:—

1. As regards limitation of transfer of jurisdiction to civil cases Chinese Government maintains its original desire to exercise *complete* jurisdiction immediately.

2. As regards our proposal that cases involving British subjects as plaintiffs should also where possible come before special chambers with foreign legal advisers, this proposal was a retrogressive step and from the Chinese point of view worse than the present practice. They did not object (this in response to my enquiry) to these cases coming before special chambers but they could not admit the presence of foreign advisers.

3. As regards our proposal that in cases involving British subjects as defendants legal adviser should sit as judge the idea of foreign judges was not acceptable to Chinese Government.

¹ No. 331.

4. Nomination of legal advisers by the Hague Court; the Chinese Government desired freedom of choice of legal advisers. I suggested selection from a panel, but received no encouragement.

5. *Evocation*; China would not agree to principle of evocation (to this point he gave special emphasis).

6. Reservation of areas round the principal ports; if such areas were accepted transfer of jurisdiction would be in name only.

7. Opening of the whole country to trade and residence etc.; Chinese Government would agree to this as already stated in treaties with Italy etc. when other special privileges were relinquished and relations between the two countries placed on a footing of perfect equality.

8. At my request he subsequently handed to me confidentially the paper from which he had read his observations. It was headed 'most objectionable points in British draft on extraterritoriality' and had clearly been prepared as a brief for his own guidance and not for communication to me. Copy follows via Siberia.²

9. I am informing United States Minister now in Shanghai.
Repeated to Peking, copy to Tokyo and Shanghai.

² Not printed.

No. 333

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 999 [F 6720/1/10]

FOREIGN OFFICE, *November 28, 1930*

Sir,

The French Ambassador called at the Foreign Office on November 24 and in an interview with Sir V. Wellesley, said that he had received instructions to inform me that the French Government had modified their attitude towards China on the subject of extraterritoriality to the following extent. Up to now they had always informed the Chinese that they would await their proposals. Having learnt, however, that His Majesty's Government had now presented their proposals to the Chinese Government, the French Government would be prepared to regard the Chinese counter-proposals as if they had been made to them.

2. Sir V. Wellesley thanked the Ambassador for this communication, of which he said he would take note.

I am, &c.,

ARTHUR HENDERSON

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received December 24)
No. 191 Tour [F 7196/1/10]

NANKING, December 1, 1930

His Majesty's Minister presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs, and transmits herewith copy of the minute of an interview with the Minister for Foreign Affairs and of the text of the draft treaty for the abolition of Extraterritoriality communicated by Dr. Wang on December 1, 1930.¹

ENCLOSURE 1 IN NO. 334

Interview at Waichiaopu, Nanking, December 1, 1930

The Minister for Foreign Affairs, and Mr. Hsu Mo
H.M. Minister, and Mr. Teichman

EXTRATERRITORIALITY

The M.F.A., in presenting the Chinese counter-draft, said he desired to make some introductory remarks. The Chinese Government wished to emphasise their desire and their earnest hope for a speedy settlement. Further delay in settling this important question was not healthy for the relations of the two countries. Dr. Wang added that he wished to observe that the draft he was now handing in was tentative and subject to alteration. By this he meant that it was a formal draft on which ideas could be exchanged, thus leading to its modification.

Sir Miles Lampson took up this point and endeavoured to pin Dr. Wang down to stating exactly what he meant by saying that the draft was subject to alteration. He presumed that the draft represented the maximum Chinese *desiderata* and that there would be no going back on it? This point was fundamental.

Dr. Wang was at first equivocal in his reply, but subsequently explained that he had to make this reservation because he was negotiating simultaneously with at least three countries. The Chinese Government, whilst presenting this formal draft, did not want to nail themselves down to it because they were simultaneously negotiating through Dr. Wu with the American Government, and with M. Wilden²; and what they might get from the Americans and French they would hope to get from His Majesty's

¹ Sir M. Lampson sent a brief report of this interview and a summary of Dr. Wang's draft treaty in his telegram No. 246 Tour of December 2 (not printed). He commented on the Chinese draft that 'It will be seen that there is so far little common ground between us but I gathered that (following our example) Chinese have opened by tabling their maximum requirements as a matter of tactics'. He added that he had communicated a copy confidentially to his United States colleague.

² French Minister in Peking in succession to M. de Martel.

Government. Dr. Wang repeated that the draft was a formal one, and added that if he were only talking with Sir M. Lampson he would not have to make this reservation, but he had made the point that he was negotiating with several Governments at the same time on the same subject.

Sir M. Lampson said he took note of Dr. Wang's remarks, though he did not know how His Majesty's Government would feel about them.

Dr. Wang said that another point he wished to emphasise was that the Chinese Government were not only anxious to meet the dying wishes of the late Party Leader in securing the abolition of all unequal privileges of foreigners, but also to allay any unnecessary agitation amongst the Chinese people. He, Dr. Wang, therefore desired to express once more his profound hope that a speedy and amicable settlement would be reached.

Sir M. Lampson said that His Majesty's Government were equally anxious to reach an agreement on this subject, and he referred to the helpful attitude adopted by Great Britain a year ago on this question. There was no doubt that His Majesty's Government wished to reach a settlement. But the question was a difficult one, and could not be rushed.

Dr. Wang reiterated the appreciation of the Chinese Government of the many steps taken by His Majesty's Government to meet their wishes, and repeated that he earnestly hoped that in this, the most important matter, Great Britain would once more take the lead in returning to China her full sovereign rights.

In reply to Sir M. Lampson's observation that he would have to go through the Chinese draft carefully, Dr. Wang said he would give him all the time he possibly could before he, His Majesty's Minister, left for the North on Friday³ night.

Sir M. Lampson said he was doubtful whether it would be possible to discuss the matter right away. He would have to read and digest the draft, and then send it home with comments and request instructions. That would take time. A pause was therefore inevitable, though there was no intention to slow up the pace. In the interval, he, Sir M. Lampson, would, as he had already told the M.F.A., be going South on his trip to Singapore. His intention was to leave Shanghai about December 30th, probably proceeding there directly from Peking. He would be away about six weeks. His return would, he hoped, synchronise with the receipt of instructions from home some time in February.

Dr. Wang said he was very anxious not to delay the matter too long, and hoped that he might be able to talk the matter over again with Sir M. Lampson before he went South.

Sir M. Lampson said he would see if it would be possible to get in a day at Nanking on his way through Shanghai to start for the South.

E. T.

³ December 5.

*Text of Draft Treaty for the Abolition of Extraterritoriality handed to
His Majesty's Minister by Dr. Wang on December 1, 1930*

ARTICLE I

Beginning from January 1, 1930, British subjects in China shall be subject to the duly promulgated laws, ordinances and regulations of China, and, other than as modified by the provisions of the present treaty and the annex thereto, they shall be subject to the jurisdiction of the modern Chinese law courts, with rights of appeal and in all other respects in accordance with law and established procedure.

Any of the modern courts already established or to be established in future in China may exercise jurisdiction in any civil or criminal case where a British subject is defendant or accused.

In the district courts in Harbin, Shenyang (Mukden), Tientsin, Shanghai, Hankow, Chungking, Canton and Kunmin (Yunnanfu), and in the provincial high courts having direct appellate jurisdiction over such district courts, special chambers shall be established for dealing with cases involving British subjects as defendants or accused, which fall within the ordinary jurisdiction of the courts to which such special chambers are attached.

Any of those cases involving British subjects as defendants or accused which originate within the ordinary jurisdiction of the courts other than those mentioned in the preceding paragraph may, upon the written request of the defendant or accused made before trial begins, be transferred for adjudication, after the necessary preliminary steps, if any, have been taken, to the special chamber nearest to the court within whose jurisdiction the case originates.

ARTICLE 2

To each of the special chambers provided in the preceding Article there shall be attached legal counsellors, who shall be selected and appointed, subject to dismissal upon cause shown, as officials of China by the Chinese Government from among Chinese and foreign legal experts of high moral character who possess the qualifications necessary for appointment to judicial offices. The names and the conditions of salary of the legal counsellors will be communicated by the Chinese Government to the Government of the United Kingdom.

The legal counsellors shall serve under the Minister of Justice and may be deputed by the Ministry of Justice, as occasion requires, for service, during the hearing of cases involving British subjects as defendants or accused, in the special chambers provided in the preceding article. It shall be the duty of the legal counsellors to observe the workings of those special chambers without interfering in the performance of duties by the judges, and to forward to the Minister of Justice such reports as the legal counsellors may consider necessary. The legal counsellors will be authorised to receive observations regarding the administration of justice in civil or criminal matters with a

view to bringing such observations to the notice of the Minister of Justice. Similarly, the legal counsellors will be authorised to receive any observations regarding domiciliary visits, requisitions or arrests.

ARTICLE 3

The special chambers established in accordance with Article 1 of the present treaty shall be abolished after a period of two years. The legal counsellors will be employed by the Chinese Government for such period as it may consider necessary, not being less than two years.

ARTICLE 4

British subjects in China shall be liable for the payment of such non-discriminatory taxes or imposts as may be prescribed in the laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China.

ARTICLE 5

Except in cases of *flagranti [sic] delicto*, British subjects in China shall not be arrested, detained or imprisoned without an order emanating from the Chinese judicial authority.

A British subject arrested in *flagranti delicto* for an act which is punishable under the Criminal Code or other criminal laws shall, within twenty-four hours after arrest, exclusive of holidays, be brought to the competent Chinese court for appropriate action.

ARTICLE 6

All rights in immovable property legally acquired and held by British subjects in China shall be recognised as valid in accordance with Chinese law, and shall remain undisturbed subject to the exercise of the right of eminent domain by the Chinese Government.

ARTICLE 7

Except in cases of *flagranti delicto*, premises owned or leased and occupied by British subjects in China shall not be forcibly entered or searched unless a warrant has been duly issued by the Chinese judicial authority.

ARTICLE 8

British subjects in China shall not be subjected to any form of military service or to any tax or levy imposed as a substitute for military service or to military requisitions or contributions of any kind, nor shall they be compelled to subscribe to any public loan or to any other form of forced levy, provided that Chinese citizens in British territories shall enjoy similar exemptions.

ARTICLE 9

Upon application being made by the interested party or parties, the Chinese courts will recognise agreements entered into by British subjects

between one another or with other foreign nationals or with Chinese citizens for the settlement of civil or commercial controversies by arbitration, and will enforce awards made in pursuance thereof unless, in the opinion of the competent court, the award is contrary to public order or good morals or is vitiated on other grounds recognised by the general principles of law.

ARTICLE 10

In all matters for which the present treaty provides, British subjects shall be accorded the same treatment as the nationals of other countries who are subject to the jurisdiction of the Chinese Government on a similar basis as British subjects. In all civil and criminal proceedings British subjects in China shall have the same rights as the nationals of any other country.

ARTICLE 11

All provisions in the existing treaties between the High Contracting Parties relating to matters of jurisdiction shall be abrogated and cease to be operative.

ARTICLE 12

The present treaty shall be ratified by the High Contracting Parties within a period of three months from the signature thereof and shall come into force on the date of the exchange of ratifications which shall take place at Nanking.

ANNEX

(1)

All cases which have been finally and definitely settled in the British consular or other courts in China before the coming into force of this treaty shall not be reopened, and all final judgments or decisions rendered in such cases shall be executed by the Chinese courts upon the request of the interested party or parties, unless they are considered detrimental to the sovereignty of China. British prisoners upon whom sentences have been definitely passed shall be transferred to British prisons outside the territory of China or handed over to Chinese authorities to serve their sentences in those prisons referred to in section 7 of this annex.

All cases pending before the British consular or other courts in China at the time of the coming into force of this treaty shall be finally disposed of and wound up within a period of three months, upon the expiration of which any cases which are still pending shall be turned over to the Chinese courts for adjudication.

(2)

The chief judge of any of the special chambers provided in Article 1 of this treaty shall be the president of the court to which the chamber belongs. Other judges of the special chamber as well as its procurators shall be selected from among legal scholars with thorough training and practical experience and with a broad knowledge of the general concepts of modern jurisprudence.

(3)

In matters of police offences, a British subject in China shall be subject to the jurisdiction of the nearest police court or of any modern court established in China. If he is found guilty of a police offence by the police court, he shall be ordered to pay a fine not exceeding 15 dollars. If he fails to pay the fine within five days after its imposition, he shall be subject to detention at the rate of one day's detention for each dollar of the fine imposed, such detention to be in accordance with the provisions of section 7 of this Annex.

For a second or subsequent offence, the offender may be sentenced to detention or fine in accordance with the police offence law.

After a period of two years from the coming into force of this treaty, British subjects in China shall be subject to the jurisdiction of police courts in the same way as Chinese citizens.

(4)

Where release on bail is granted to British subjects, the sum fixed shall be reasonably proportionate to the degree of the offence, taking also into consideration the condition of life of the accused. In all cases release on bail may be granted at the discretion of the court, and in cases of minor offences it will always be granted unless (1) this entails danger to public safety, (2) the court has reason to believe that the accused may flee from justice after release, or (3) such provisional release is calculated to impede the investigation of the case. When a British subject appeals from a sentence, the same facilities for release on bail as mentioned above shall be granted him until the sentence of the appellate court shall have been handed down.

(5)

In matters of personal status British laws will be applied by Chinese courts as regards British subjects in China provided that Chinese laws will be applied in such matters by the British courts as regards Chinese citizens in British territories.

(6)

A British subject appearing before a Chinese court as party to a civil or criminal case may employ legal counsel of Chinese or of his own nationality, registered as such with the Chinese Government, to represent him before the court, and such counsel, if of British nationality, shall have the same rights and privileges as Chinese lawyers appearing before the court, and shall be subject to the same laws and regulations governing Chinese lawyers.

Hearings shall be in the Chinese language, but the court shall take measures to ensure an understanding of the proceedings by all parties to the case, and have the assistance of competent interpreters, if necessary.

(7)

British subjects sentenced to detention or imprisonment shall be detained or imprisoned only in modern detention houses or prisons.

British subjects who are detained or imprisoned shall have the right to communicate with, or to be visited by, relations or friends according to the regulations of detention houses or prisons.

No. 335

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 331 Telegraphic [F 6662/1/10]

FOREIGN OFFICE, *December 2, 1930, 4.0 p.m.*

Your telegram No. 242.¹

With regard to point No. 7 Chinese offer to open whole country to trade and residence when relations between the two countries have been placed on a footing of perfect equality is rendered illusory by interpretation which the Chinese place upon 'equality', namely, withdrawal of foreign gunboats. Equality in this sense is not something which we withhold from China but, being inherent in fact that the standards of her administration are lower than those required in a modern State, can only be attained by her own efforts. These lower standards render China unequal to responsibilities, such as protection of life and property, which foreign Powers, reluctantly and at considerable cost to themselves, are compelled to shoulder on her behalf. For precisely the same reasons we are compelled to demand that no surrender of extraterritoriality can be made unless hedged around with adequate safeguards.

If you agree you might make use of this argument in the course of your discussions.

Repeat to Tokyo. Repeated by bag to Washington.

¹ No. 332.

No. 336

Sir M. Lampson (Peking) to Mr. A. Henderson (Received January 13, 1931)

No. 1826 [F 277/34/10]

PEKING, *December 10, 1930*

Sir,

With reference to my telegram No. 246 Tour Series¹ of the 2nd December, and my despatch No. 191 Tour Series² of the 1st December, 1930, I have the honour to transmit herewith a further copy of the Chinese counter-proposals for the abolition of extraterritoriality,³ together with comments, prepared by Mr. Teichman, analysing the Chinese draft, article by article, in comparison with our original proposals, exploring the amount of common ground between the two drafts, and suggesting in each case the nature of the further counter-proposals which might be made.

¹ Not printed. See No. 334, note 1.

² No. 334.

³ Not here reprinted.

2. I am not at all clear in my mind for the moment as to what our next step should be; as, for instance, whether we should prepare, and in due course present, a further formal counter-draft of our own by amending so far as we consider possible our original proposals, or whether we should now take the Chinese draft as the basis for further negotiations, and, working on the lines of Mr. Teichman's notes, seek to build up in discussion with the Chinese a new draft embodying our minimum requirements.

3. In any case, we must first decide in our own minds what our attitude is to be towards the question of the four major safeguards which were included in our, and omitted from the Chinese, scheme, namely:—

- (a) Reservation of criminal jurisdiction;
- (b) Foreign co-judges;
- (c) Evocation; and
- (d) Reservation of Shanghai and other ports.

4. My view remains that we should do well to throw in (a) if we can thereby secure (b), (c) and (d), and Mr. Teichman's notes are prepared on these lines with the object of providing a nucleus of common ground on which to try and build if the Chinese will agree to such a bargain.

5. An alternative method of approach might be to insist on the reservation of criminal jurisdiction, but to abandon the idea of the reserved areas, i.e., to let the agreement apply to Shanghai except in criminal matters. There are, however, grave objections to such a proposal from the point of view of the banks and big business interests, the headquarters of which would thus pass under Chinese civil jurisdiction. I regard, indeed, the reservation of Shanghai for a period of years as, from a practical point of view, the most important of all the safeguards, and I therefore favour the former alternative.

6. If we are to surrender criminal jurisdiction, we should also be clear in our own minds whether we intend to stand firm on the other major points, namely, foreign co-judges, evocation, and the reservation of Shanghai and other ports. I myself should be inclined to do so. It is true that it may be argued that foreign co-judges and rights of evocation may be of doubtful practical value, and that, from what we know of the Chinese attitude, they will be unable ever to agree to them, and that it might, therefore, be wiser to be prepared to trade them in as and when necessary for the proper elaboration of the other safeguards we require. But I do not believe in undue haste over this business. The Chinese are far from having all the cards in their hands, and if, having advanced as far as we consider it desirable to go for the moment, a deadlock ensues, we can, provided we are prepared to face the inherent risks, sit back for a while and leave it to the Chinese to find a way out of the *impasse*; and I do not myself believe that they, the Chinese, when it came to the point, would appreciate a deadlock any more than we should. But we should have to expect trouble, and whether His Majesty's Government—or, indeed, the British communities in China—are prepared to face these risks, is another matter, and a fundamental point on which I must look to the Foreign Office for guidance. It is no good putting the point to our

people out here; the majority would merely give the usual reply, that they are prepared to face any amount of trouble *if* His Majesty's Government will guarantee to see them through, i.e., guarantee that they do not lose in the long run; while the minority would point out that, as extraterritoriality has got to go anyhow in a few years, it is desirable to get the best terms we can before it is too late.

7. In any case, provided my instructions are sufficiently elastic, a temporary deadlock will do no harm; and, in the meantime, some other Power, such as the United States, may provide a pointer in their negotiations. I would add that, apart from keeping one another fully informed, I do not favour further attempts at remaining completely in line with the American Government in these negotiations, since to do so is likely, from our recent experiences, to involve such prolonged delays as to make reasonable progress in discussions with the Chinese impossible.

8. I should be glad to receive your instructions if necessary by telegraph, in good time before I meet the Minister for Foreign Affairs again at Nanking on my return towards the end of February from my trip to Singapore. I trust it may be possible to cover in these instructions all the points raised in this despatch and the enclosed paper, and to provide me with a definite revised draft approved by His Majesty's Government on which to base my further discussions with Dr. Wang; by this, I mean that any further redrafting, beyond that contained in Mr. Teichman's notes, which may be required to meet the views of His Majesty's Government, should be done in the Department at home. Some guidance as to our maximum and minimum requirements on specific points and particular articles would also be most useful.

I have, &c.,

MILES W. LAMPSON

ENCLOSURE IN No. 336

*Notes on the Chinese Proposals for the Abolition of Extraterritoriality,
December 1930*

Notes on Article 1

December 12, 1930

The wording of this article is vague, and in parts contradictory, e.g., the second and last paragraphs, the first of which states that any of the modern courts may exercise jurisdiction in cases involving British subjects, while the last provides for such cases being brought before the special chambers. What the article presumably means, or what it should at any rate be made to mean, is that cases involving British subjects as defendants or accused will, at the option of the latter, *always* be heard before the special chambers. These are to be established at eight centres, all contained in our list, but the additional four in our list of twelve, namely, Peiping, Nanking, Tsingtao and

Foochow, are omitted. To make the list too long will probably only defeat its object, since the more special chambers there are, the less likely they are to be efficient; Peiping is within easy reach of Tientsin and Nanking of Shanghai; and Foochow is perhaps hardly worth a special chamber; but it would seem that Tsingtao should be included.

We need hardly worry about the deletion of the provision which appeared in our draft that the special chambers would also be available for local cases in which British subjects are *plaintiffs*, since, in view of our attitude towards this aspect of the question, the proposal is not one on which we can logically insist.

This article might be redrafted in the words of the relevant parts of articles 1 and 2 of our draft as follows:—

‘Except as otherwise provided by the present treaty, British subjects in China will, as from the date of the exchange of ratifications of this treaty, be subject to the duly promulgated laws, ordinances and regulations of China and to the jurisdiction of the modern Chinese law courts, with rights of appeal, and in all other respects in accordance with law and established procedure. They shall not, however, be subject to the jurisdiction of the police courts, except in the case of minor offences not punishable by detention or imprisonment or fines exceeding 10 dollars, nor to the jurisdiction of the magistrates’ courts, nor to that of military courts or courts or tribunals of any other kind than the regular modern law courts of China.

‘In the district courts in Harbin, Mukden (Peiping), Tientsin (Tsingtao), Shanghai (Nanking), Hankow, Chungking, Canton (Foochow) and Yunnanfu, and in the high courts having appellate jurisdiction over such district courts, with the exception of the Supreme Court, special chambers shall be established for dealing with cases involving British subjects as defendants or accused. All cases involving British subjects as defendants or accused, wherever resident, except when they may be taken to the Supreme Court on final appeal, or when a British subject concerned may elect, in writing, to submit himself to the jurisdiction of the local modern court having jurisdiction over purely Chinese cases of a similar nature, shall be tried only before these special chambers. Any case involving a British subject as defendant or accused, which originates within the ordinary jurisdiction of a court other than one of those mentioned above, will (unless the British subject concerned elects otherwise, as provided above) be transferred for trial to the special chamber nearest to the court within whose jurisdiction the case originates.’

The concessions made to the Chinese in the above redraft, apart from adopting in places their wording, comprise the inclusion of criminal jurisdiction and deletion of the proviso that the special chambers will also be available for cases in which British subjects are plaintiffs.

The last sentence renders the phrase about the territorial jurisdiction of the special chambers contained in the protocol attached to our draft superfluous.

Notes on Article 2

According to the above wording, the legal counsellor assisting at the trial of a British subject might be Chinese. This is probably mere face-saving, and doubtless the point could be covered in an additional clause or separate note undertaking that in British cases a foreign, and, if practicable, a British counsellor, would function (cf., the Siamese precedent).

There is no mention of the nomination by the Hague Court of a list of foreign jurists from which the legal counsellors would be selected (Turkish precedent). It is questionable whether much would be gained by insisting on this point.

The functions of the legal counsellors, as defined above, are too restricted, e.g., there is no mention of their having access to the files of the proceedings and presenting their views to the court in writing (as provided in the first Chinese outline plan of January 1930⁴), nor of their forwarding copies of their reports to the Legations concerned, and so on (Turkish precedent).

A redraft of this article, according to the relevant parts of article 2 of our draft, would read as follows:—

“To each of the special chambers provided in the preceding article there shall be attached legal counsellors, who shall be selected by the Chinese Government from a list of foreign jurists nominated by the Hague Permanent Court of International Justice, and appointed in accordance with the conditions of service and salary recommended by the said court. The names and the conditions of salary of the legal counsellors will be communicated by the Chinese Government to the Government of the United Kingdom. They shall remain in office for a specified term unless dismissed for cause publicly shown. (Two sentences regarding the treatment of the legal counsellors and their assignments, which appeared in our draft, are here omitted as being superfluous.)

“The legal counsellors shall serve under the Minister of Justice, and shall be deputed by the Ministry of Justice for service during the hearing of cases involving British subjects as defendants or accused in the special chambers provided in the preceding article. It shall be the duty of the legal counsellors in these cases to observe the workings of the special chambers. They shall have access to the files of the proceedings, and may present their views to the judges, who shall give due consideration to the views thus expressed by the legal counsellors. The legal counsellors shall forward to the Minister of Justice such reports as they may consider necessary, and copies of these reports in cases concerning British subjects shall simultaneously be forwarded by the legal counsellors to His Britannic Majesty’s representative in China. The legal counsellors shall be authorised to receive observations regarding the administration of justice in civil or criminal matters, with a view to bringing such observations to the notice of the Minister of Justice in order to ensure strict observance of the provisions of Chinese law. Similarly, the legal counsellors shall be authorised to

⁴ See No. 197.

receive any other observations or complaints, including such as may be caused by domiciliary visits, requisitions or arrests, &c. As far as may be practicable, a legal counsellor of British nationality shall officiate at the trial of cases involving British subjects as defendants or accused; and in all such cases the legal counsellor shall sit as one of the judges hearing the case, whether in the district or high court, and the concurrence of the legal counsellor to any judgment or order shall be necessary for its validity.'

Notes on Article 3

Two years is obviously too short a term for the existence of the special chambers and the legal counsellors. A redraft of this article might read as follows:—

'The special chambers established in accordance with article 1 of the present treaty shall remain in existence for such period as the Chinese Government may consider necessary, not being less than ten years; similarly, the legal counsellors will be employed by the Chinese Government for such period as it may consider necessary, not being less than ten years.

'The special chambers shall be established and the legal counsellors shall be appointed and installed in office before the exchange of ratifications of this treaty.'

Notes on Article 4

The meaning of this should be that British subjects will *only* be liable for non-discriminatory, regular and legal taxation. There seems no reason why we should not, in the first instance, at any rate, stand by the full text of our version of this article (see article 3 of our draft). Whatever these paper safeguards may be worth, there is no doubt that British subjects in China will attach the greatest importance to adequate guarantees against irregular, excessive and extortionate taxation.

Notes on Article 5

This article requires elaboration in accordance with the original version of article 5 of our draft before it was altered to meet the case of an arrangement excluding criminal jurisdiction.

A redraft might read as follows:—

'Except in cases of *flagranti [sic] delicto*, British subjects in China shall not be arrested, detained, or imprisoned, except upon an order formally issued by a modern Chinese law court, specifically citing by title and section the law under which and the offence for which such arrest is made. They shall within twenty-four hours after arrest, exclusive of legal holidays, be brought before the nearest modern Chinese law court competent to deal with the case for hearing. If there is no competent modern court which can be reached within this space of time, any British subject thus arrested will be brought before the nearest competent modern court with the least possible delay.

'Any British subject arrested or otherwise detained shall be permitted to communicate immediately with the nearest British consular officer, and he shall be afforded all possible facilities to that end. British consular officers or their representatives shall be permitted to visit any arrested British subject in prison or in the premises in which he may be detained.

'In the event of illness, a British subject under detention shall be provided as promptly as possible with the services of a foreign medical practitioner and, should such practitioner consider such British subject in need of hospital treatment, the Chinese authorities shall take all possible measures to facilitate the removal of such British subject to a modern hospital for treatment.

'British subjects shall not be subject to imprisonment for debt. If, however, execution of the debtor's goods actually in China appears subject to serious dangers by the acts of the debtor, or if the execution cannot be safeguarded by other means, he may be detained in the manner provided for such cases under Chinese law.'

Our original article 5 also contained paragraphs concerning detention only in modern prisons, commutation of imprisonment by fines, and release on bail; these points are covered elsewhere in the present draft (see Annex, clauses 4 and 7).

We also provided in our original draft of this article for the trials of cases involving British subjects being open to the public, a point which is covered at the end of these notes.

Notes on Article 6

This article makes no mention of the safeguards against retrospective demands for the payment of land transfer fees, provided for in article 8 of our draft. Also the reference to 'the exercise of the right of eminent domain by the Chinese Government' appears to cover expropriations without the safeguards provided in paragraph 2 of article 10 of our draft.

A redraft of this article, in accordance with our requirements, would read as follows:—

'All rights in immovable property legally acquired and held by British subjects in China shall be recognised as valid and indefeasible. All legal Chinese land transfer fees leviable under regular Chinese legislation, as provided in article 4 of the present treaty, shall, where properly payable under such legislation, be paid by British subjects on account of land transactions in the future. But no demand shall be made by the Chinese authorities for the payment of such land transfer fees on transfers of land to or from British subjects in the past, and titles to land held by British subjects shall not be called in question on account of non-payment of such transfer fees in the past. Titles to property held by British subjects shall likewise not be questioned other than when fraud is proved as a result of due process of law.

'The property of British subjects in China shall not be expropriated,

nor shall the use of it be denied to them, even temporarily, except for reasons of public interest, recognised by law as such, in the form of a court order emanating from a modern Chinese law court. No expropriations shall be made without previous public notice and in return for fair compensation to be paid in advance. The use of the property of British subjects shall not be denied to them, even temporarily, except in return for fair compensation to be paid in advance.'

Most of the above paragraph regarding expropriations is taken verbatim from the corresponding parts of the Turkish treaty. The words, which appeared in our original draft, qualifying the court issuing the expropriation order as one in which a special chamber has been established (they were inserted by the Americans) have been deleted as unreasonable and impracticable.

Notes on Article 7

This article requires elaboration in accordance with the sense of the relevant parts of article 10 of our draft (based partly on the Chinese Commercial Treaty draft handed to us last year).

A redraft, in accordance with our requirements, might read as follows:—

'The public buildings and private residences of British subjects in China and their warehouses and business premises and factories, together with all their accessories, articles and properties, shall be respected and shall not be subjected to any requisition, search or inspection, and the books and correspondence relating to their commercial transactions shall not be examined except as specifically provided for in non-discriminatory legislation, legally enacted and duly promulgated, and as the result of due legal process. Except in cases of *flagranti delicto*, premises owned or leased and occupied by British subjects in China shall not be forcibly entered or searched except upon a warrant formally issued by a modern Chinese law court, specifically citing by title and section the law under which the action is authorised; and the section of the Chinese code relating to domiciliary searches by procurators without court process shall not apply to such premises.'

This is rather overloaded with verbiage and might possibly be cut down somewhat, and the last sentence appears superfluous in view of the penultimate one. Other clauses in our version of this article, such as safeguards against military service, requisitions and forced loans, and against expropriations, are dealt with elsewhere (see articles 6 and 8 of this draft). The last paragraph of our version of this article, concerning safeguards for shipping, is entirely omitted from the Chinese draft and requires to be inserted either here or as a separate article (see concluding portion of these notes).

Notes on Article 8

This article is verbatim the same as the corresponding clause in article 10 of our draft, except for the omission in two places of the words 'directly or

indirectly', and the addition of the final proviso that such exemptions are dependent on reciprocal treatment. It is suggested that we should retain the words 'directly or indirectly' in both places in which they appear, and it is presumed that we can accept the proviso regarding reciprocal treatment.

Notes on Article 9

The wording of this article is practically the same as that of our version of article 7 of our draft, except for the addition of the underlined sentences.⁵ Are these additions acceptable?

Notes on Article 10

This wording is a watered-down version of article 14 of our draft. The reservation in the first sentence ('the same treatment as the nationals of other countries who are subject to the jurisdiction of the Chinese Government on a similar basis as British subjects') appears largely to nullify the object of the clause. It is submitted that we should retain our original version, which reads as follows:—

'In all matters for which this treaty provides British subjects shall enjoy all exemptions from Chinese jurisdiction which may be enjoyed by the nationals of any other country, and shall be subjected to no discriminatory treatment in regard to taxation, judicial, or any other matters concerned, as compared with nationals of China or the nationals of any other country.'

Notes on Article 11

This wording appears logical, and it might be combined with our version (article 15 of our draft) to read as follows:—

'Except as modified by this treaty, the existing treaties in force between the High Contracting Parties shall remain in operation, but all provisions in the said treaties relating to matters of jurisdiction shall be abrogated and cease to be operative.'

Notes on Article 12

Ratification within a stated period is unacceptable so long as we adhere to our plan of making ratification and enforcement conditional (see the protocol attached to our draft).

Apart from the above point, this article raises the question as to whether the treaty is to be terminable, as provided in article 17 of our draft, which stipulates for revision at the end of ten years, or whether only certain provisions in the treaty, such as those relating to the special courts and legal counsellors, rights of evocation, and reservation of Shanghai, &c., should be terminable. In the latter case, all that would be necessary would be to delete from the above article the words 'within a period of three months from the signature thereof'.

⁵ i.e. (a) the opening phrase ending 'party or parties'; (b) the phrase 'in the opinion of the competent court'; (c) the concluding phrase beginning 'or is vitiated' in Article 9 in Enclosure 2 in No. 334.

Clause (1)

Apart from the addition of the sentence about prisoners, the first part of which seems useful, this is a watered-down version of our article 12 (based on the Siamese precedent). It is suggested that we should retain our version, with the omission of the word 'civil' in the first sentence and the addition at the end of the following sentence from the Chinese draft 'British prisoners upon whom sentences have been definitely passed shall be transferred to British prisons outside the territory of China.'

Clause (2)

The wording of this clause is practically the same as the corresponding clause in paragraph 2 of article 2 of our draft, except for the omission of the following sentence in the latter, which reads: 'Their names, ranks and salaries shall be made known to the public, and they shall not be removed from office without cause being publicly shown.' This sentence is doubtless offensive to the Chinese, but we might try for its inclusion.

Clause (3)

These provisions are vaguely worded, the reference to a second offence is unsatisfactory, and the two-year period of immunity from police court measures is too short; but the underlying idea of limiting police court punishments to a fine of 15 dollars seems designed to meet our requirements. The point is, however, already covered (see notes on article 1), and if our redraft of that article stands, this annex will not be required. It will, however, presumably be necessary to set some time limit—say, ten years, as in the case of the special chambers—to the period of partial immunity from police court jurisdiction.

Clause (4)

This wording appears inadequate as compared with our version in article 5 of our original draft before it was altered for the reservation of criminal jurisdiction. It is suggested that we should retain our original version, based on the Persian and Turkish precedents, which reads as follows:—

'Immediate release on bail will be granted to any British subject arrested in every instance, except in the case of crimes punishable by death or imprisonment for life, the amount of bail being reasonably proportionate to the offence alleged. Such facilities for release on bail will be granted to appellants until the sentence of the appellate court is given.'

Clause (5)

This wording falls a long way short of our proposal (see article 6 of our draft) reserving personal status matters altogether, in accordance with the precedent of the Turkish treaty. Moreover, in the discussions which we had early this year the Chinese did not seem to object to the full reservation of

personal status matters. It is therefore suggested that we should retain our original version.

Clause (6)

This wording represents a watered-down version of the corresponding parts of article 1 of our draft. The provisions regarding the appearance of British lawyers are probably of small practical value, but those regarding adequate interpretation of court proceedings may prove to be of greater importance.

A redraft of this article in accordance with our version might read as follows:—

‘From the inception of all proceedings in civil or criminal cases involving British subjects as plaintiffs or complainants or defendants or accused until the conclusion thereof, including the hearing of all cases in court, as well as preliminary investigations or examinations of whatever nature, the assistance of duly qualified British or other foreign or Chinese lawyers and interpreters will be permitted, and such legal counsel, if of British nationality, shall have the same rights and privileges as Chinese lawyers appearing before the court, and shall be subject to the same laws and regulations governing Chinese lawyers.

‘Hearings shall be in the Chinese language, but the court shall take measures to ensure that such English and Chinese translations are made during the hearings and later as may be necessary for an understanding of the proceedings by all the parties to the case and their representatives.

‘British subjects parties to a case or persons authorised by them shall, upon payment of the usual official fees for such copy, have the right to obtain in both Chinese and/or English certified copies of the evidence and judgment in such case.’

Clause (7)

A redraft of this article in accordance with the corresponding clauses of our version in article 5 of our original draft (before it was altered to reserve criminal jurisdiction) might read as follows:—

‘British subjects sentenced to detention or imprisonment shall be detained or imprisoned only in modern detention houses or prisons, where they may be visited by British consular officers or their representatives as occasion may demand. British subjects so imprisoned may also be visited at any time by their relations or friends in accordance with the prison regulations.

‘It is understood that any British subject sentenced to imprisonment for any offence for which the maximum period of imprisonment is twelve months or less will be permitted, on written application of his own, to convert such sentence into a pecuniary fine at the rate of 1 dollar for every day’s imprisonment.’

The ground which is common, or which can possibly be made common, between our draft and the Chinese draft is covered in the above notes.

As foreshadowed in the Minister for Foreign Affairs' statement of the 20th November,⁶ the following major safeguards which appear in our draft are entirely omitted from the Chinese draft, namely:—

- (a) Reservation of criminal jurisdiction;
- (b) Foreign co-judges;
- (c) Evocation;
- (d) Reservation of Shanghai and other ports.

As regards (a), these notes have been drawn up on the assumption that criminal jurisdiction will be thrown in as a bargaining lever.

As regards foreign co-judges, they are provided for in the last sentence of the present redraft of article 2.

As regards rights of evocation, article 4 of our draft requires to be inserted as an additional article in this Chinese draft.

As regards the reservation of Shanghai, &c., article 9 of our draft requires similarly to be inserted as an additional article in this Chinese draft.

Apart from the above major omissions, and the various shortcomings discussed in these notes, the Chinese draft makes no mention of the following provisions included in our draft, which would require to be inserted as additional articles in this Chinese draft:—

1. The safeguards against interference with shipping contained in the last paragraph of article 10 of our draft. This will doubtless raise the question of inland navigation, with which, however, it has in reality no immediate concern, since sea-going vessels are equally covered by the proposed guarantees.
2. The stipulation concerning trials of cases involving British subjects being open to the public contained in the final paragraph of article 5 of our original draft, which reads as follows:—

‘All trials of cases involving British subjects will be open to the public, and all persons interested in the hearing or in the fate of the accused may be present as spectators.’

3. The provisions regarding the treatment to be accorded to British companies contained in article 11 of our draft (on the precedents of the Turkish and Siamese treaties). The Chinese will doubtless insist on the insertion of some proviso authorising them to exercise full control over, and enforce the registration of, such companies, but this could hardly be objected to.
4. Article 13 of our draft regarding rights of residence and trade throughout China. In his statement of the 20th November the Minister for Foreign Affairs informed us that his Government would favourably consider this question when other special foreign privileges are relinquished and relations between the two countries are on a footing of

⁶ See No. 332.

perfect equality. It seems desirable to reinsert this article, if only for purposes of further consideration.

5. Article 16 of our draft covering the inclusion of 'British-protected persons' in the expression 'British subjects'. This is a minor point which should not give rise to difficulties.
6. The protocol attached to our draft provided for the communication to His Majesty's Government and enforcement in British courts in China of Chinese laws and the postponement of the ratification of the treaty until one year after all the principal codes have been promulgated and enforced and so communicated, 'provided the Chinese Government shall have demonstrated its ability to give effect throughout China to the terms of the treaty.' It seems desirable, at any rate for purposes of negotiation, to reinsert this protocol. The attaching of conditions of this nature to the ratification and enforcement of the treaty would enable it to be concluded, and thus give great face to the Chinese, much earlier than would otherwise be possible, and would afford a valuable breathing space in which to see whether the National Government is or is not now going to attain a measure of real stability—a point which has very great bearing on the advantages and dangers of the abolition of extraterritoriality.

Additional Note

Since writing the above I have read the protocol and documents attached to the recent Sino-Polish Treaty (see Sir Miles Lampson's despatch No. 1831⁷ of December 11, 1930), and I note that, under Article 18 of the treaty and the attached protocol, while the local authorities can intervene to put a stop to disorders on Polish ships in China waters, it is understood that such intervention can only take place on the request of a Polish Consul or the captain of the ship; and that, if in case of emergency such intervention takes place without such request, the authorities concerned will have immediately to report the matter to the nearest consul. It may be worth bearing this in mind in connexion with our proposed safeguards for shipping.

I also note in this Sino-Polish correspondence the communication of a list of Chinese legislation which, bare though it is, represents the germ of the idea developed in our demand to see all the Chinese codes, &c., to which British subjects in China are to be submitted.

E. TEICHMAN

⁷ Not printed. This treaty of September 18, 1929, and the additional protocol of July 1, 1930, are printed in *British and Foreign State Papers*, vol. 133, pp. 215–24.

No. 337

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 19, 12.45 p.m.)

No. 746 *Telegraphic* [F 7141/1/10]

PEKING, December 19, 1930, 6.55 p.m.

Nanking telegram No. 288.¹

In view of veiled threat at the end of Minister for Foreign Affairs' message I propose with your approval to return forthwith written reply to the effect that Chinese counter-draft having been formally communicated to me as recently as December 1 and now being on its way home for the consideration of His Majesty's Government with a view to issue of necessary instructions to me for the continuance of negotiations, His Majesty's Government do not understand necessity for the message and hesitate to believe that final sentence cloaks any intention on the part of Chinese Government by precipitate action to prejudice course of normal negotiations.

Repeated to Nanking and Mr. Ingram.

¹ Not printed. This telegram of December 17 transmitted a translation of a memorandum communicated to Mr. Ingram that day by Dr. Wang. The memorandum concluded: 'The Chinese Government still believes that it is possible to settle once and for all the question of abolition of extraterritoriality by negotiation and that it will not be necessary for the Chinese Government to take a different course of action towards that end.' A similar communication to the Department of State is printed in *Foreign Relations of the United States 1930*, vol. ii, p. 497.

No. 338

Mr. A. Henderson to Mr. Snow (Tokyo)

No. 658 [F 6978/61/10]

FOREIGN OFFICE, December 19, 1930

Sir,

I duly received Sir John Tilley's despatch No. 479¹ of the 20th September last reporting on a conversation between the Commercial Counsellor of His Majesty's Embassy and the Vice-Minister of Foreign Affairs in which Mr. Yoshida spoke on the subject of Anglo-Japanese co-operation in China.

2. The Japanese Government, as you will have learnt from my despatch No. 656² of the 18th instant, have recently made an appeal to me for co-operation in the question of the consolidation of Chinese debts. The necessity of avoiding the least appearance of sponsoring the Japanese claims in respect of the Nishihara loans has made it necessary to give a very cautious reply to this appeal, and the moment is therefore inopportune to take exception to Mr. Yoshida's remarks reported in Sir John Tilley's despatch. In other circumstances I should have been disposed to instruct you to point

¹ No. 323.

² Not printed.

out to him that his recollection of the reception of the overtures made by Count Uchida in 1928 is entirely incorrect. A reference to your archives will show that His Majesty's Government did in fact express a general willingness to co-operate, and invited but failed to elicit the concrete Japanese proposals which Mr. Yoshida asserts would have been made if that general willingness had been declared.

3. It is true that actual issues on which co-operation between the two Governments is possible do not frequently emerge. The reason lies in the divergent character of British and Japanese interests in China, a fundamental factor which inevitably narrows the field in which co-operation is possible. But where it is possible it is the desire of His Majesty's Government to pursue it. I am not aware of the reason for Sir John Tilley's impression that His Majesty's Government had decided against it in the question of extraterritoriality in China. No such decision has been reached, and if co-operation has been less close with the Japanese than with the United States Government in the more recent phases of the question the reason is to be found, not in the disposition of His Majesty's Government but in the reserve maintained by the Japanese Government in disclosing their own minds. They have been kept fully informed of the views and intentions of His Majesty's Government, but have given hardly any indication of their own. In such circumstances it is difficult to achieve that co-operation which Mr. Yoshida professes to desire and all the more surprising that he should consider the lack of it attributable to the backwardness of His Majesty's Government.

4. As regards the possibility of co-operation in the trade with China the proposal reported in Sir John Tilley's despatch is very indefinite. A more definite proposal was reported in His Excellency's telegram of the 7th October last,³ but it is thought advisable to defer serious examination of it until the considered views of the Economic Mission are received. In the meantime there appears no reason to suppose that the proposal would be acceptable to the British cotton trade.

I am, &c.,

ARTHUR HENDERSON

³ Not printed.

No. 339

Sir M. Lampson (Peking) to Mr. A. Henderson

(Received December 20, 9.0 a.m.)

No. 747 Telegraphic [F 7151/1/10]

PEKING, December 20, 1930, 12.45 p.m.

My immediately preceding telegram.¹

French Minister has received similar message and I learn the same thing has gone to Washington. I am ascertaining through Mr. Ingram whether

¹ No. 337.

Japanese Chargé d'Affaires has had similar communication and if so what his reply is to be to it.

I do not think that we should allow ourselves to be rushed by this move. Renewal of pressure on extraterritoriality issue was to be expected with restoration of internal peace and even if the veiled threat in the final sentence is seriously meant situation is much the same as that with which we were faced a year ago. In the eyes of the Chinese extraterritoriality has been definitely abolished since January last though in practice Minister for Foreign Affairs has been willing and able to dispose amicably of such incidents as have occurred cf. McBride case at Hankow. I read the meaning of the present covert threat to be that failing a settlement before the end of February such incidents may be provoked rather than shelved and there may even be an attempt to apply fiscal laws taxation etc. to foreigners unsheltered by foreign Concessions as at Tientsin Shanghai and Canton. Probably also a renewed drive in such question as Shanghai extra-Settlement roads regarding which I never felt we had much of a case.

Question thus resolves itself into whether His Majesty's Government are prepared to be rushed into a premature settlement to avoid possible troubles ahead: or whether as I myself should advocate we refuse to allow ourselves to be brow-beaten and intimate politely to the Chinese that as a great Power matter must be handled in a proper and normal Diplomatic Court [*sic*] along the lines we have already initiated and to which the Chinese are definitely committed by their presentation of formal counter-draft of December 1.

I should welcome definite instructions.

Repeated to Tokyo, Nanking and Mr. Ingram.

No. 340

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 22, 9.0 a.m.)

No. 755 Telegraphic [F 7160/1/10]

PEKING, December 22, 1930, 4.25 p.m.

Following from Nanking No. 294 December 21.

My telegram No. 293.¹

Whatever happens I am convinced that movement for abolition of extra-territoriality is serious and that when People's Convention is called on May 5 the present Government are determined and will announce it is *fait accompli*. What happens before March 1 may not be serious but the present movement is well supported and in my opinion it will definitely come to a head on date given above unless something very unforeseen happens no matter what attitude the Powers may adopt towards the question.

¹ It has not been possible to trace this telegram in the Foreign Office archives.

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 22, 9.0 a.m.)
No. 756 Telegraphic [F 7161/1/10]

PEKING, December 22, 1930, 4.25 p.m.

Following received from Nanking No. 296, December 21.

Begins.

Following from Mr. Ingram.

Nanking telegram No. 288.¹

I saw the Doctor this morning on my way through Nanking and he asked me to impress on you the seriousness of his memorandum especially of the last paragraph which he asked you should read and re-read. China had been waiting thirty years to obtain abolition of extraterritoriality and would wait no longer. She realised she was taking a risk in approaching this realisation of her aspirations in this manner but she was prepared to take consequences. Dr. Wang knew how the League felt about international [*sic* ? unilateral] abrogators of international treaties but he felt China would have the world behind her in making this stand for equal treatment and position. He had implicit faith in the fair-mindedness of Great Britain and his action must not be construed as implying a disbelief in genuineness of our intentions.

I was impressed by Dr. Wang's seriousness and determination.

Ends.²

¹ Not printed. See No. 337, note 1.

² On December 23 Lord Cecil minuted: 'I do think the Chinese have a grievance and regret that Sir M. Lampson vetoed recourse to the League a year ago. R. C. 23.12.30.'

The following minutes were written in reply to Lord Cecil:

(1) by Sir John Pratt:

'With regard to Lord Cecil's minute on Nanking telegram No. 288 on the subject of extraterritoriality, those who have had experience of dealing with Chinese and interpreting their utterances are satisfied that the Chinese themselves do not feel aggrieved at the course that events have followed during the past eighteen months. The negotiations opened in 1929; we helped the Chinese out of a serious difficulty by accepting in advance their mandate purporting (but only purporting!) to decree unilateral abolition on January 1st 1930 and when, shortly afterwards, the whole country was convulsed with civil war the Chinese were very glad indeed to see the whole question go into abeyance—knowing that as far as we and America were concerned the respite was being put to good use—until their domestic disputes had been settled. The civil war is now over and the recent communications we have received from Dr. Wang do not indicate that China has a grievance but are merely China's way of saying that in her opinion the time has now arrived when active negotiations should be resumed and pushed to a conclusion.

'Lord Cecil's suggestion for League action is contained in his minute of October 25th 1929, on F 5714/1959/10. The essence of it is that an expert committee of the League should enquire into the whole question of the "unequal treaties" and render a report showing the mode in which and the extent to which extraterritoriality should be abolished; the pressure of public opinion would then be so great that both sides would find it very difficult to refuse to abide by the report. [See No. 118.] Leaving out of account the danger of the League mobilising world opinion against America and Japan, all those who have any practical experience of dealing with Chinese problems are agreed that it is unthinkable that China

would ever submit to such a procedure. It is not correct to say that Sir M. Lampson vetoed recourse to the League. It was vetoed by the facts of the case. But assuming for the sake of argument that it was possible to set the League machinery in motion as suggested by Lord Cecil, then we have every reason to be thankful that such a course was not in fact adopted. During the whole of 1930, while China was convulsed with civil war and ravaged by bandits and Communists, an expert committee of the League would have been enquiring as to the extent to which and the conditions under which extraterritoriality could be abolished. An enquiry conducted in such circumstances could only have resulted in a report and recommendations of such a nature as to irritate the Chinese and render the situation more difficult for all concerned. It is even possible that we might have been faced with the alternatives of sending out another defence force or throwing over the League. In any case it is certain that the damage to the League would have been very great.

'The fundamental mistake of the proposals periodically put forward for League action in China is that they aim at one target but really hope to hit another. Naturally they miss both. They purport to propound a solution of the Chinese problem but their real object is to "boost" the League. The League however was made for the world and not the world for the League. Attempts to insist that every problem must be made to fit the Genevan bed of Procrustes are not in the best interests of the League. In resisting such proposals the Far Eastern Department are as much concerned to prevent injury to the League of Nations as to find the best solution for the problems confronting us in China.

'In order to prevent misunderstanding, it is necessary to add that there are spheres where League action is of service in China. If the matter is cautiously handled it is reasonable to hope that the area of such action may be greatly extended in the not distant future.

[J. T. PRATT, Jan. 2, 1931]

(2) by Mr. MacKillop:

'League officials have rendered valuable service to China in the past year in the field of public health. That service was rendered *at China's request*: it must have been appreciated, for the Chinese Government have recently asked Dr. Rajchman of the Health Section to go out a second time and help them. This seems a very satisfactory beginning for League assistance to China.

'With regard to the question of extraterritoriality the Chinese Government have on more than one occasion requested His Majesty's Government (somewhat peremptorily on occasion) to initiate, to expedite or to resume, as the case might be, direct negotiations with them on this subject. In each case we have promptly complied. On one occasion China has approached the League on a matter substantially a League one, that of the interpretation and invocation of Article 19, which is related to that of extraterritoriality. On this occasion the spokesman of His Majesty's Government took part in the cordial and sympathetic discussion of China's desires, and a road was opened for the Chinese Government to appeal to the League for a decision on the applicability of the treaties by virtue of which extraterritoriality exists in China. The Chinese Government have not elected to follow that road: a fact which seems to support very strongly the views expressed by Sir J. Pratt and Mr. Orde on this paper and on F 5714/1959/10 of 1929. They have, on the contrary, elected to make a further definite approach to His Majesty's Government and the other interested foreign Powers on the subject of these treaties.

'His Majesty's Government seem therefore to have played their part with the greatest correctness and courtesy. When China chose direct negotiation, she was met on that ground: when she elected to bring the question to the international forum, it was considered in proper form by the delegates of the assembled nations, including our own. Thus whatever the ground which China has chosen for the discussion of the treaties, she has found us ready to meet her on it. Surely that is the best and the safest course for us to follow. There can be no question of His Majesty's Government having vetoed, or vetoing, an approach on the part of China to the League: indeed it is a matter of history that China *has* approached the League. She has not renewed that approach for her own reasons, whatever they may be: and we should respect her freedom to choose her diplomatic terrain.

'Surely it would be invidious to depart from this safe and correct course and, in effect, to

suggest to China that she is incapable of conducting her international affairs without the unsolicited advice of States of superior political wisdom, and that the practical question of the modification of the old treaties, which she thinks is suitable for diplomatic negotiation with the countries concerned, is really not so suitable. Any change in our attitude would have the further disadvantage of rendering useless and consequently redundant in the future the close collaboration between ourselves and the United States Government which has been established in relation to this subject and seems to be of some general political value.

'D. MacKILLOP, 3. 1'

(3) by Sir V. Wellesley:

'I have nothing to add to the above minutes with which I entirely concur.

'V. W. 5/1/31'

No. 342

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received December 23, 9.0 a.m.)

No. 759 Telegraphic [F 7184/1/10]

PEKING, December 23, 1930, 1.30 p.m.

My telegram No. 747.¹

I have pooled all available information with American, Japanese, French and Netherlands Legations here.

French Minister has already received instructions from Paris to return an answer to Minister for Foreign Affairs on much the same lines as those submitted in my telegram No. 746.² He suggests French Government have probably communicated it to you.

Repeated to Nanking, copied to Mr. Ingram.

¹ No. 339.

² No. 337.

No. 343

Mr. A. Henderson to Sir M. Lampson (Peking)
No. 353 Telegraphic [F 7141/1/10]

FOREIGN OFFICE, December 23, 1930, 3.40 p.m.

Your telegram No. 746.¹

I approve proposed reply. You might add that I regard it as most important for the prospects of a favourable conclusion to the negotiations that the atmosphere should not be embittered by threats on either side. I leave it to your discretion whether and in what manner to convey to Minister for Foreign Affairs that I am prepared to deal with the question of extraterritoriality in as liberal a spirit as possible, but that it will be difficult to do so if threats are made or incidents created which are bound to arouse bitter public feeling.

¹ No. 337.

No. 344

Mr. Snow (Tokyo) to Mr. A. Henderson (Received December 23, 12.15 p.m.)

No. 252 Telegraphic [F 7197/1/10]

TOKYO, December 23, 1930, 6.10 p.m.

Sir M. Lampson's telegram No. 747.¹

I asked Vice-Minister for Foreign Affairs this afternoon whether he felt any alarm as to course events might take next year in China. He replied in terms which surprised me by their confidence, Chinese Minister had recently made to Japanese Government such a satisfactory declaration in regard to China's intentions towards Japan that he felt no anxiety.

See my immediately following telegram² and my telegram No. 247.³

Repeated to Peking.

¹ No. 339.

² Not printed. This telegram reported a statement to the press by the Chinese Minister in Tokyo, in the course of which he stated that it would be foolish for China to adopt an anti-Japanese policy.

³ Not printed. This telegram referred to Sino-Japanese negotiations regarding the Japanese Concession at Hankow.

No. 345

Sir M. Lampson (Peking) to Mr. Hewlett (Nanking)
(Received December 24, 1930)

No. 261¹ Telegraphic [F 7201/1/10]

PEKING, December 24, 1930

You should immediately deliver following message in writing as from and signed by me to Minister for Foreign Affairs in reply to his communication of December 17.²

Begins.

'His Britannic Majesty's Minister has the honour to acknowledge receipt of memorandum from Minister for Foreign Affairs dated December 17 on the subject of negotiations for abolition of British extraterritorial rights in China and under instructions from His Majesty's Principal Secretary of State for Foreign Affairs to state in reply that Chinese counter-proposals having been formally communicated to him as recently as December 1 and being now on their way to London for consideration by His Majesty's Government with a view to issue of necessary instructions to His Majesty's Minister for continuance of negotiations, His Majesty's Government do not understand necessity for message from Minister for Foreign Affairs and hesitate to believe that final sentence cloaks any intention on the part of

¹ This telegram was addressed to Nanking as No. 261 on December 24, and was repeated as No. 764 to the Foreign Office where it was received on December 24 at 10.25 a.m.

² See No. 337, note 1.

Chinese Government by precipitate action to prejudge course of normal negotiations. His Majesty's Minister is instructed to add that His Majesty's Principal Secretary of State for Foreign Affairs regards it as most important to prospects of a favourable conclusion to negotiations, that atmosphere should not be embittered by threats on either side.'

• Written message ends.

In presenting above document you should add following verbal message from me intimating that it is made on direct instructions from home; that I hope he will realise significance underlying it; and that there is no objection to his taking a written note of it if he so desires.

Begins.

'Sir M. Lampson is further instructed to add that Mr. Henderson is prepared to deal with question of extraterritoriality in as liberal a spirit as possible but that it will be difficult for him to do so if threats are made or incidents created which are bound to arouse bitter public feeling.'

Repeated to Foreign Office and Tokyo.

CHAPTER VI

Further correspondence regarding the demand of the Chinese Government for the abolition of extra-territoriality: Sir M. Lampson's negotiations with Dr. Wang: the agreed text of the draft Anglo-Chinese treaty on extraterritoriality referred to the British and Chinese Governments
(January 7–June 8, 1931)

No. 346

Mr. Ingram¹ (Peking) to Mr. A. Henderson
(Received January 7, 9.0 a.m.)
No. 8 Telegraphic [F 144/34/10]

PEKING, January 7, 1931, 10.35 a.m.

On January 5 United States Counsellor communicated to me substance of a telegram from State Department reporting reaction of United States to Chinese proposals. He stated that Department were working on a revised counter-draft for presentation to Chinese Government and added that in view of Sir M. Lampson's absence from Peking His Majesty's Government would be kept informed through United States Embassy in London.

Repeated to Mission.²

¹ Sir M. Lampson had left Peking on December 26, 1930, to pay a visit to Singapore. On his return to China he arrived at Shanghai on February 25, and Nanking on March 1.

² i.e. H.M. Minister's personal representative at Nanking.

No. 347

Mr. A. Henderson to Mr. Ingram (Peking)
No. 12 Telegraphic [F 144/34/10]

FOREIGN OFFICE, January 9, 1931, 3.5 p.m.

Your telegram No. 8.¹

United States Embassy have communicated views of State Department to the effect that while they doubt whether Chinese Government intend uni-

¹ No. 346.

lateral abrogation of extraterritoriality difficult situation might arise 'toward the end of 1932' if new agreements have not been concluded; that Chinese would be found responsive to manifestation of real desire to settle question at an early date and that a treaty concluded now would be likely to be of advantage to all concerned. The State Department are preparing new draft dropping evocation and certain minor provisions and following at certain points wording of Chinese draft.

We have replied² agreeing generally with view that negotiations should be carried to conclusion at an early date and promising further communication after Sir M. Lampson's comments on Chinese draft have been received.

Do you consider that United States Government is unduly optimistic as regards possibility of Chinese letting the matter rest till end of 1932? See Nanking telegram No. 294.³

Repeat to Tokyo with your telegram No. 8.

² See No. 348.

³ See No. 340.

No. 348

Letter from Sir V. Wellesley to Mr. Atherton

[F 118/34/10]

FOREIGN OFFICE, *January 9, 1931*

Dear Atherton,

Many thanks for your letter of the 2nd January¹ in which you are good enough to communicate the views and intentions of your Government with regard to the Chinese memorandum of December 19th on the subject of extraterritoriality. The Chinese counter-draft of December 1st, which, I understand, corresponds very closely with the proposals made to your Government on December 7th, have [*sic*] only recently been received in the Foreign Office. It is hoped that this draft may be found suitable as a basis of negotiations, but until Sir M. Lampson's comments,² which were sent off a week later via Siberia and have not yet arrived, are received, it will not be possible to subject the Chinese proposals to careful and detailed scrutiny.

As regards the policy to be pursued at the present juncture the Foreign Office agree generally with the view taken by the Department of State that the time would now appear to have arrived when negotiations should be taken up and carried to a definite conclusion. Postponement to a later date of any serious effort to grapple with this problem would appear to involve the risk of missing a favourable opportunity—which may not recur—of reaching a solution satisfactory to all concerned.

¹ Not printed. This letter, which conveyed the information summarized in No. 347, was in accordance with the instructions printed in *Foreign Relations of the United States 1930*, vol. ii, p. 504.

² See No. 336.

The Foreign Office would be much interested to see a copy of the new draft, now in preparation in the Department of State, when it is available. Steps will be taken to keep your Government fully informed of any further conclusions His Majesty's Government may reach or action they may contemplate after further consideration, in consultation with Sir M. Lampson, has been given to the subject.

Yours sincerely,
VICTOR WELLESLEY

No. 349

*Mr. Ingram (Peking) to Mr. A. Henderson (Received January 14, 9.0 a.m.)
No. 18 Telegraphic [F 297/34/10]*

PEKING, January 14, 1931, 10.25 a.m.

Your telegram No. 12.¹

Provided there is no fresh outbreak of civil war I consider it most unlikely that Chinese will let matter rest. On the contrary the greater their hopes of internal peace and their consciousness of stability the stronger will be their drive for immediate abolition. Tone of their memorandum of December 17² is sufficient indication of their frame of mind.

Repeated to Tokyo and Mission.

¹ No. 347.

² See No. 337, note 1.

No. 350

*Mr. Ingram (Peking) to Mr. A. Henderson (Received January 14, 9.0 a.m.)
No. 20 Telegraphic [F 298/34/10]*

PEKING, January 14, 1931, 10.25 a.m.

Following from Shanghai No. 3 January 9.

Begins:—

Your telegram No. 13.¹

Shigemitsu² states that Japanese Legation must have been misled by a recent telegram of his to Tokyo saying that in due course he would submit general proposals for an extraterritoriality draft. He has not yet done so and is still studying the question. He also said that he had received no indication of his Government's view on the subject and he doubts whether Japanese Minister for Foreign Affairs who has recently taken over concurrently post of Premier has had time to consider the matter in any detail.

His present difficulty was that while desiring to co-operate with British and Americans he felt that it was now useless to put in proposals similar to our original ones in view of Chinese reply since received. It would merely irritate

¹ Not printed.

² Japanese Chargé d'Affaires at Peking.

the Chinese. He added that he had lost no opportunity of pressing negotiations and his reply had always been that the Japanese Government were sympathetic but required time for careful study of the question.

Copied to Diplomatic Mission.

No. 351

Mr. A. Henderson to Mr. Ingram (Peking)

No. 24 Telegraphic [F 478/34/10]

FOREIGN OFFICE, *January 22, 1931, 6.45 p.m.*

My telegram No 12.¹

United States Embassy has communicated telegraphic summary of amendments incorporated in new American draft.² The most important amendments are deletion of Articles 4 (evocation) and 13 (residence in interior) and a redraft of Article 9. Copy of redraft is contained in my succeeding telegram.³ United States invite our early observations.

The question is now under consideration whether the United States Government should be urged to agree to surrender of criminal jurisdiction on the lines suggested in your despatch No. 1826.⁴ In the meantime I should be glad to receive your observations and observations of His Majesty's Consul-General at Shanghai especially in relation to proposed surrender of minor criminal jurisdiction in Shanghai.

Repeated to Tokyo No. 10.

¹ No. 347.

² For this telegraphic summary see *Foreign Relations of the United States 1931*, vol. iii, pp. 719-20.

³ Not printed.

⁴ No. 336.

No. 352

Mr. Ingram (Peking) to Mr. A. Henderson

(Received January 28, 10.35 a.m.)

No. 36 Telegraphic [F 608/34/10]

PEKING, *January 28, 1931, 4.30 p.m.*

Following received from Shanghai No. 6 January 27.

Begins:

Foreign Office telegram No 24 to you.¹

American re-draft of Article 9 seems to me² and Crown Advocate ambiguously worded. It was originally intended as an exclusive article but now deals partly with excluded areas and partly with jurisdiction in all China. As regards latter it is redundant to Article 1 and Article 15.

¹ No. 351.

² i.e. Mr. Brennan. (Cf. No. 353, note 3.)

In particular it does not say clearly whether minor criminal jurisdiction specified in Article 1 is or is not surrendered to Chinese police courts in excluded areas. One is left to infer it by implication.

If it is surrendered then I would point out that there are no Chinese police courts in foreign settlements of Shanghai. In Greater Shanghai police offences are dealt with bureaucratically by Chief of Police. In International Settlement minor offences committed by Chinese are dealt with by special district court and in French Concession by mixed court. It is therefore undesirable to give Chinese any excuse for claiming right to establish police courts in foreign areas especially International Settlement in order to exercise such minor jurisdiction.

If it is decided to surrender minor criminal jurisdiction in excluded areas I would urge that above point be covered but I suggest that it would be simpler merely to exclude areas specified from operation of whole agreement as originally intended.

Reduction to ten-mile radius for Shanghai excludes Woosung but affects no important British interests.

If criminal as well as civil jurisdiction is surrendered in the rest of China presumably Article 13 regarding residence in the interior will be retained.

Copy to Nanking.

No. 353

Mr. Ingram (Peking) to Mr. A. Henderson

(Received January 28, 3.10 p.m.)

No. 35 Telegraphic [F 631/34/10]

PEKING, January 28, 1931, 7.25 p.m.

Your telegrams Nos. 24¹ and 25².

My immediately following telegram³ contains observations of His Majesty's Consul-General, Shanghai, and Crown Advocate on American re-draft of Article 9 and I endorse points they make. If need be we could abandon exclusion of Tangku and Haiho river in this article. American Legation draft of new Article 9 includes Hankow between Tientsin and Canton and I assume its omission from your telegram No. 25 is due to oversight.

I agree that we can also abandon evocation but do not consider American concession[s] will go far enough to provide practical basis for negotiations and I doubt whether any of us will make any real progress unless as a last resort we are prepared to throw in criminal jurisdiction which is the principal consideration on Chinese side in exchange for co-judges and exclusion of Shanghai and other ports. Success of negotiations will largely depend on the manner and method of approach. If we or United States in our next counter-draft abandon criminal jurisdiction we at once throw away our best bargaining

¹ No. 351.

² Not printed. See No. 351.

³ No. 352. These telegrams were despatched out of order.

counter. My inclination therefore would be to retain criminal jurisdiction in my draft to be handed in . . .⁴ but to give His Majesty's Minister full discretion in his verbal negotiations at Nanking to abandon it if and when necessary on best terms . . .⁵ can.

As a matter of tactics there seems to be no reason for abandonment of Article 13, at present stage. I would moreover remind you that it is a point to which Japanese have always attached the utmost importance. My own personal view is that right to reside and trade in the interior may be of greatest value to the foreigner if ever conditions approach normality in China and that this is psychological moment to try and obtain this right. Moreover it is one which on grounds of equality of treatment Chinese should find it difficult logically to refuse especially if we ultimately concede criminal as well as civil jurisdiction. United States Minister shares this view and has urged State Department not to exclude Article 13. So far as further concessions by Washington go United States Minister has consistently expressed doubt as to desirability of pressing co-judges but I am by no means certain that his opinion carries weight with State Department.

Repeated to Nanking, Shanghai and Tokyo.

⁴ The text is here uncertain. Another text here read: 'handed in at Nanking, but'.

⁵ The text is here uncertain.

No. 354

Mr. Snow (Tokyo) to Mr. A. Henderson (Received March 11)

No. 34 [F 1395/1391/10]

TOKYO, *January 28, 1931*

Sir,

With reference to my despatch No. 28¹ of the 21st January, relative to Baron Shidehara's position in the Japanese Diet, I have the honour to transmit to you, herewith, a translation² of the speech which His Excellency delivered on the 22nd instant, in his capacity as Minister for Foreign Affairs, at the opening session of the Diet this year.

2. While Baron Shidehara described the conclusion of the London Naval Treaty³ as the most outstanding event of the past twelve months, the greater part of his speech was devoted to China, representing the most important problem with which Japanese foreign policy is at present faced, as well as the one in regard to which his own policy, rightly or wrongly, has been most exposed to criticism.

¹ Not printed. In this despatch Mr. Snow reported that Baron Shidehara's position was difficult, as he was not a member of the Minseito party, which formed the Government, and that 'there is also in certain quarters a growing feeling of dissatisfaction with the foreign policy of the present Ministry'.

² Not printed: see below.

³ See Volume I in this Series, Appendix I.

3. The main points of the speech, so far as it concerned China, were as follows: Baron Shidehara affirmed that the Japanese people were united in considering that in the treatment of questions between the two countries no resort to propaganda or threats by either against the other could serve any useful purpose, or lead anywhere, except to fresh complications. Such questions as arose could, in the speaker's opinion, only be solved by mutual co-operation in an endeavour to discover a true basis of common welfare for both countries. Baron Shidehara referred to the possibility that China's steps were at last resolutely set on the 'trail once blazed by Japan in her struggle to emerge from a position of international inequality'. After mentioning in this connexion that various Departments of the National Government had sent missions to Japan for purposes of study, and that in each case Japan had placed every facility at their disposal, Baron Shidehara continued: 'When China seriously proceeds with constructive reforms of government, then the so-called unequal treaties will lose the foundation on which they rest, and it admits of no doubt that in such an event all the foreign Powers will cheerfully agree to the relinquishment of the existing exceptional régime.' His Excellency also touched on the vexed question of railway-building in Manchuria. Here, too, he advocated an attempt to discover a line of procedure favourable to the interests of all concerned. Baron Shidehara's review of Chinese problems concluded with an optimistic reference to the state of affairs in Chientao, which has formed the subject recently of frequent reports from this Embassy and from His Majesty's Minister at Peking.⁴

4. It will be seen that His Excellency's remarks amount to a rather guarded hint that Japan does not mean to be hurried, coupled with a suggestion that the best way of smoothing out points of difference between Japan and China would be to define and to concentrate attention upon the complementary needs of the two countries. (It is curious that the latter suggestion echoes his advice to British and Japanese business interests during the recent visit of the British Economic Mission.)

5. Baron Shidehara would, however, no doubt be among the first to admit that his policy, as above defined, should not be claimed as possessing more than the negative merit of being less likely to lead to undesirable results than the alternative available policies, which he was at pains to emphasise his own excluded, and which he described as the policies of propaganda and of threats.

6. The rejection of the latter policy was no doubt intended by Baron Shidehara, and understood by his audience, as a condemnation in the last instance of the course pursued during the brief existence of Baron Tanaka's Cabinet with such disastrous results; in regard to these Baron Shidehara preserved, overtly, however, a scrupulous silence, which his opponents can have been under no temptation to disturb.

7. Baron Shidehara's one positive recommendation, viz., that the complementary needs of the two countries should be stressed, is, it must be admitted, open to criticism; for while the importance of China to Japan might readily be conceded, it would probably be difficult, if not impossible, to

⁴ Not printed.

secure any willing recognition by China of a complementary dependence upon Japan. Baron Shidehara's deliberate rejection of propaganda as a means to this end may, however, be taken as implying that he himself recognises the positive limitations of his policy. Indeed, read between the lines, his speech itself admits them: If it is the fact that, to use his own expression, China is 'following the trail once blazed by Japan', it must already be the case that China's aim is, and increasingly will be, to render herself as far as possible self-sufficing, and, consequently, independent of Japan. Moreover, it is a truism that Japan has owed her own success to her pursuit of a similar ideal of self-sufficiency, and to the Japanese people it could, accordingly it would appear, only be a matter for particular surprise if an ideal, which has commended itself to political thinkers since the earliest days of political thought, were now to fail to commend itself to the people of China.

8. Baron Shidehara is a man of a practical turn of mind, and his decision, easily intelligible in the circumstances that Japanese propaganda in China would be unlikely at present to serve any useful object, only gains additional force from the fact that his speech, so I understand, was itself drafted in the Ministry's propaganda department, which indeed appears, from various indications, already to have received instructions to curtail its activities.

9. A copy of this despatch is being sent to His Majesty's Minister at Peking.

I have, &c.,

T. M. SNOW

No. 355

Letter from Mr. Orde to Mr. Atherton

[F 704/34/10]

FOREIGN OFFICE, *February 3, 1931*

Dear Atherton,

The attached memorandum¹ is, as you will realise, only an informal statement of Departmental views and must not be taken as an official communication. It may however be taken as giving the Foreign Office views subject, as indicated in it, to the Secretary of State's decision on the questions submitted to him.

Yours sincerely,

C. W. ORDE

¹ The memorandum is a summary of views expressed to the United States Ambassador at a discussion in the Foreign Office on February 3.

ENCLOSURE IN No. 355

Memorandum on Extraterritoriality in China

FOREIGN OFFICE, *February 3, 1931*

The Foreign Office are not yet in a position to give a complete answer to the communications received from the Department of State as the papers have not yet been submitted to the Secretary of State. The Foreign Office

are seeking the authority of the Secretary of State to abandon evocation, criminal jurisdiction and co-judges, in that order if it is found during the course of negotiations at Nanking that these successive concessions are necessary in order to reach a satisfactory settlement with the Chinese. Pending the decision of the Secretary of State on this recommendation the Foreign Office have the following observations to offer on the new American draft communicated by Mr. Atherton on January 28.²

Any concessions which it may be considered advisable to make should be made gradually in the course of negotiations *at Nanking* and not all at once. Presentation of a new draft in Washington as proposed by the State Department does not therefore seem to the Foreign Office to be the best method of pursuing these negotiations, but such action would do no harm provided the new draft does not go further than abandonment of evocation. Any further concessions on matters of substance *at the present stage* would in the opinion of the Foreign Office be a mistake.

Specific points in the new draft to which attention should be drawn are as follows:

1. *Co-Judges*. The telegraphic summary of the new American draft did not make it clear that it was proposed to abandon the safeguard that legal advisers should act as co-judges. The previous observations of the Foreign Office on this point are subject therefore to modifications. The recommendation made to the Secretary of State is that i[t] might be advisable to abandon co-judges at a later stage of the negotiations, but it seems to the Foreign Office that it would be a great mistake in tactics if the United States Government were to include any such concession at the present stage in the new draft which they now propose to present.

2. *Minor Criminal Jurisdiction in Shanghai*

The British Consul-General in Shanghai would greatly prefer the complete exclusion of Shanghai as originally proposed. We should therefore much prefer that the American Government should not make this concession at the present time. It involves a number of complications which require to be carefully studied before a final decision is reached.

3. *Personal Status Matters*

We are advised that it is by no means clear what is the effect of the new draft of Article 6. It makes provision for cases where some of the parties are Americans and others are not, but it is not clear why in such cases, the Chinese Courts should apply American law exclusively. The question of mixed cases is a difficult one but it might be better to leave the Chinese to raise it; in the case of Turkey, it was simply ignored. It is not clear to what cases the proviso about estates is intended to apply. For all these reasons it seems to be better to maintain the original proposal for the complete exclusion of personal status cases.

² i.e. the draft of which a summary was communicated to the Foreign Office on January 21. See No. 351, note 2.

4. The State Department enquire as to the relative importance attached to criminal jurisdiction and legal advisers. As the Chinese are willing to employ legal advisers the question of relative importance does not appear to arise. All that appears to be necessary is to persuade the Chinese to enlarge the functions of their legal advisers and to consent to their being of foreign nationality only. It is observed that in the new American draft, th[e] functions of the legal advisers have been cut down. The provision with regard to domiciliary visits, for example, though included in the Chinese draft is cut out of the new American draft. The Foreign Office are opposed to abandoning co-judges at the present stage but subject to the approval of the Secretary of State, it may be advisable to surrender criminal jurisdiction, if necessary, in order to obtain satisfactory safeguards as regards legal advisers in addition to the exclusion of Shanghai, and if possible other Treaty Ports.

5. *Article 3*

The redraft of this Article abandons certain provision[s] relating to taxation which may be of value. The Foreign Office would prefer to retain these until the views of Sir M. Lampson and the reaction of the Chinese authorities have been ascertained. The latter can only be ascertained in th[e] course of personal negotiations at Nanking.

6. *Article 8*

The Foreign Office would prefer to retain the original draft of this Article relating to titles for the same reasons as in the case of Article 3.

7. *Article 13*

The Foreign Office strongly deprecate dropping the stipulation regarding residence in the interior. Tactically such a stipulation puts us in a strong position with the Chinese; moreover, this is a matter to which Japan attaches great importance and it will be difficult to keep Japan in line if this stipulation is dropped without any reference to her views on the matter.

No. 356

Letter from Mr. Atherton to Sir V. Wellesley

[F 898/34/10]

AMERICAN EMBASSY, LONDON, *February 11, 1931*

My dear Wellesley:

Subsequent to our conversation upon the abolition of extraterritorial rights in China on February 3 I duly transmitted to my Government the points we discussed, which later were forwarded to me in a confidential memorandum by Orde.¹ The Embassy has today received a confidential message from the Secretary of State in which it is set forth that out of deference to the views

¹ Enclosure in No. 355.

and suggestions of the Foreign Office the Department of State has modified its earlier proposed method of procedure.

It would appear that on February 7 the Chinese Minister in Washington was handed a written statement, a summary of the text of which is enclosed as received this morning by cable.² In brief, after the four opening references, there follows an outline of a summary setting forth points on which and the manner in which the Department of State, in the preparation of new draft proposals, would be willing to deviate from and make changes in its draft proposals of October 28, 1930.³ The Department of State also reaffirms its decision that any agreement concluded must provide for a transitional period. I understand that when this written memorandum was handed to the Chinese Minister it was supplemented by an oral statement emphasizing the importance the Department of State attaches to these negotiations, and that the United States Government could not give its assent to any plan which failed to provide for an evolutionary period.

In the meantime, although no further proposals are being submitted to the Chinese Minister in Washington, the Embassy is informed that the draft on which the Department of State is working retains the proposals in regard to co-judges as in Article 2 of the draft of October 28th. The Embassy is likewise informed that there are being retained the provision in regard to areas excluded as in Article 9, the provision in regard to personal status matters as in Article 6, and the provision in regard to the rights of residence and trade as set forth in Article 13.

However, the Embassy is informed that when the negotiations between the Secretary of State and the Chinese Minister in Washington are actively resumed the Department of State will be prepared to make concessions in connection with these matters, always bearing in mind both the suggestions which have already been put forth and the counter-suggestions of the Foreign Office, as well as the suggestions which the American Minister to China has transmitted to the Department of State as coming from British officials in China.

The Department of State is now awaiting such reply, if any, as the Chinese may make, and the Embassy has been informed that it will be advised of any developments in the matter.

In forwarding you the attached telegraphic summary of the written statement referred to in this note, I am asked to explain that this is merely a statement from one negotiator to another and is not to be regarded as a communication between Governments.

I hope to have a word from you at your convenience, after you have had time to give this matter your consideration, suggesting a date on which I may come to see you.

Yours sincerely,
RAY ATHERTON

² Not here printed. The enclosure was the statement printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 726-30.

³ See No. 330, note 1.

Sir R. Lindsay (Washington) to Mr. A. Henderson (Received February 21)
No. 271 [F 1086/34/10]

WASHINGTON, February 12, 1931

Sir,

Some little time ago Mr. Castle¹ asked me to come and talk to him about Anglo-American co-operation in China, but first he went to bed with influenza, then I had an attack of it myself, and our interview only took place today.

2. He said that at present conversations of a purely informal and tentative nature were taking place between Dr. Hornbeck and the Chinese Minister with a view to seeing whether there were any terms for the abolition of extraterritoriality on which the two parties could get together. He was taking care to keep you informed of what passed in these conversations, and he had impressed forcibly on Dr. Wu that they were purely informal and not binding on the United States Government. He felt, however, quite clearly that Washington was not the right place for conducting negotiations of this nature and that they should be pursued in Nanking. Accordingly Mr. Johnson had been instructed to return to Nanking to pursue conversations with the Chinese Government, to arrive there within a few days after the return of Sir M. Lampson from Singapore.

3. What was most concerning Mr. Castle was the prospect that the Chinese Government, anxious to appear in the best possible posture before the Kuomintang Congress on the 5th May, might before that date, by unilateral action, purely and simply abolish extraterritoriality. This prospect he looked on as something more than a mere possibility, and he felt that it deserved to be carefully considered beforehand. He quite recognised that extraterritoriality was doomed and must go sooner or later; he personally would be very glad to let it all go if it could be preserved in Shanghai, Canton, Hankow, Tientsin and Mukden, in which fully 90 per cent. of the foreign interests were concentrated; but with practically nothing prepared to take the place of existing extraterritorial institutions the State Department did not think it would be possible to acquiesce in their total abolition, and the resultant complete abandonment of the interests of American citizens. Yet he admitted the State Department had no plan ready for facing the contingency should it arise, and he wondered whether His Majesty's Government had given the matter any serious consideration.

4. The French Ambassador in quite unofficial conversation with him had anticipated that the Chinese Government would indeed abolish extraterritoriality, but would do so as a face-saving manoeuvre, with no intention of interfering with the extraterritorial institutions in their working, and that these latter might carry on unaffected, the foreign Powers requiring to take no particular action. This Mr. Castle felt to be a most dangerous theory, for,

¹ American Assistant Secretary of State.

though it might be acted on at first, within a very few weeks actualities would assert themselves with ever-increasing strength and real difficulties would multiply themselves, while the Powers would have impaired their right to protest. It would conceivably be possible for the Powers to seize the Customs at Shanghai and perhaps elsewhere, and this he believed would be an action which would materially hurt the Chinese Government and have considerable effect; but he had not seriously thought out its consequences. I said I thought His Majesty's Government would be reluctant to adopt a measure with such vast and incalculable commitments behind it.

5. Pursuing the matter further, Mr. Castle said that sooner or later China must inevitably want a reconstruction loan, and that if the United States and Great Britain were to stand together they might obtain some leverage by threatening to withhold consent; but he was not very sanguine of the efficacy of this threat. Or, again, he felt sure that China had so far regarded the United States Government as more kindly disposed towards them in their aspirations than other Powers, and as inclined generally to use their influence with these latter to bring them forward along the path of concession; it might have some weight at Nanking if he were to request Dr. Wu to warn his Government seriously that if they abolished extraterritoriality by unilateral action, then they must expect the United States Government to cease henceforth from acting as their best friend.

6. These various expedients were put forward by Mr. Castle in an unofficial and non-committal manner. What he wanted to know was whether the contingency he was contemplating was regarded seriously by His Majesty's Government, and whether they had given thought to the question of how to deal with it if it arose.

I have, &c.,
R. C. LINDSAY

No. 358

Mr. A. Henderson to Mr. Ingram (Peking)

No. 40 Telegraphic [F 960/34/10]

FOREIGN OFFICE, *February 18, 1931, 3.25 p.m.*

Your despatch No. 1826.¹

Following telegram was sent on February 14 to Canada, Australia, New Zealand, South Africa and Newfoundland.

Begins:

Extraterritoriality in China.

We have now completed our examination of Chinese counterdraft in the light of His Majesty's Minister's comments and the following represents our conclusions.

1. We are of opinion, after the fullest consideration, that the stabilisation

¹ No. 336.

of the political situation in China presents a favourable opportunity, which may not recur, of arriving at a satisfactory settlement of this question, and that an effort to negotiate a definitive agreement should therefore be made during the next few months. In order to achieve this end we believe that it will be necessary to abandon some of the safeguards of the September 11 draft which it will be remembered included more than it was contemplated that the Chinese would be willing to accept. It is not proposed however to embody these concessions in any fresh draft or series of drafts but to authorise Lampson, when active negotiations are resumed, progressively to abandon so far as may be necessary certain demands contained in the draft of September 11 with a view to securing in return the assent of the Chinese Government to the retention of those safeguards which are regarded as really vital.

2. We have been in consultation with the Government of the United States and have just learned from them in strict confidence that they have informed the Chinese Minister at Washington that they are prepared to abandon the right of evocation and to make various other minor modifications in the original draft. We have never attached great importance to this safeguard and we propose to authorise Lampson to abandon evocation as a first step. We agree with Lampson's view that negotiations are unlikely to pursue a satisfactory course until the Chinese demand for the surrender of criminal jurisdiction is acceded to. It is proposed therefore to authorise Lampson to surrender criminal jurisdiction provided the United States Government agree to adopt the same course and provided the Chinese Government agree in return to the exclusion of Shanghai and the other ports named in September 11 draft, to the appointment of foreign legal advisers with adequate powers and functions and to satisfactory provisions as regards the various other matters of detail dealt with in the other articles of the draft. Before definitely agreeing to surrender criminal jurisdiction a careful examination will be made of the Chinese criminal code.

3. We agree with Lampson's view that the most important interest at stake is the exclusion of Shanghai. The exclusion of Tientsin, Canton and Hankow is not so vital and might possibly be abandoned in the last resort, but the exclusion of Shanghai even if the area excluded is limited to the International Settlement only would seem to be a vital necessity.

4. The Chinese would appear to be strongly opposed, for reasons of national prestige, to granting the powers of a co-judge to legal advisers employed by them. To insist on legal advisers being granted such powers might therefore give rise to friction and might jeopardise their utility in a purely advisory capacity. In order to avoid losing the benefit of a safeguard to which the greatest importance is attached it is proposed to authorise Lampson as a final concession to the Chinese Government to abandon the provision that the legal advisers shall act as co-judges.

It is desirable that Lampson should be in a position to resume active negotiations not later than the end of February, and it is proposed therefore, if no comments should be received in the meantime, to send him instructions in the above sense in ten days time. It will be appreciated that the matter

has not hitherto been sufficiently advanced for the preparation of any fresh draft. As soon, however, as agreement with the Chinese Government has been reached on the general principles involved preparation of the definitive draft treaty will be taken in hand.

Ends.

No. 359

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 1, 3.5 p.m.)

No. 8 Tour: Telegraphic [F 1215/34/10]

NANKING, March 1, 1931, 4.20 p.m.

Your telegram No. 40.¹

I have informed Japanese Chargé d'Affaires fully of sense of instructions I shall probably receive but omitted all allusion to prior American consent.

2. He tells me position with Japan remains in *statu quo* and believes no step will be taken until end of March at the earliest when Diet rises. Japanese proposals will probably follow lines of our September draft.

3. He personally agrees with our views generally as regards tactics of negotiations and attaches minor importance save as bargaining pawns to evocation, criminal jurisdiction, and co-judges. As regards reserved areas he shares our opinions but adds that Japan will probably want to add to this list certain areas in Manchuria e.g. in railway zone.

Repeated to Peking.

¹ No. 358.

No. 360

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 1, 5.30 p.m.)

No. 10 Tour: Telegraphic [F 1217/34/10]

NANKING, March 1, 1931, 6.45 p.m.

I arrived at Nanking March 1 and saw Minister for Foreign Affairs this morning.

2. I told him my extraterritoriality instructions had still not arrived though I had been promised them by the end of February: doubtless they were on their way. Would he care in the meantime to deal with non-contentious articles in our two drafts with a view to using the interval to get an agreed text thereon—or prefer to wait till I could deal with general principles?

3. He said undoubtedly the latter and I agreed that this was the wisest

course. Drafting of a common . . .¹ should be easy once we were agreed on principles.

4. I shall accordingly take up other matters outstanding but if the instructions do not arrive within the next twenty-four hours my position will be embarrassing.

Repeated to Peking.

¹ The text is here uncertain.

No. 361

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 2, 11.50 a.m.)

No. 12 Tour: Telegraphic [F 1223/34/10]

NANKING, March 2, 1931, 3.50 p.m.

On March 1 United States Minister read to me long telegram from Washington¹ quoting Chinese answer to American 'statement' of February. Whilst admitting some slight progress Chinese Minister holds out on all principal points.

2. In the circumstances State Department instruct United States Minister to inform me that they do not for the moment intend to carry on negotiations further at Washington and that they will thus leave the field clear for my negotiations in the hope that this may strengthen my hand.

3. Doubtless gist of above message and text of Chinese Minister's reply will reach you direct. Meantime I have thanked Minister for action of his Government.

4. I took the opportunity to inform him of the gist of my probable instructions (your telegram No. 40²) emphasizing that they had not yet reached me and might be modified before they did. I also informed him of my conversation with Minister for Foreign Affairs on March 1³ and discussed with him general tactics to be followed.

5. I once more put to him advantage of his conducting American negotiations here and not in Washington. Japanese Chargé d'Affaires had asked me to suggest this once more and I had promised to do so but was there any hope of acquiescence? He replied that there was but not through pressure from outside. He thought Washington were likely to let negotiations slide away from Washington and to . . .⁴ him in China. Please regard this as confidential.⁵

Repeated to Peking and Tokyo. Copy to Shanghai.

¹ Printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 736-7.

² No. 358.

³ See No. 360.

⁴ The text is here uncertain.

⁵ In his telegram No. 11 Tour of March 2 Sir M. Lampson had commented on a report (later confirmed) that Mr. Hu Han-min had been arrested on February 28: 'If Hu Han-min goes it should have a bearing on questions such as extraterritoriality. Chinese Minister in Washington was Hu Han-min's man—thus Washington was negotiating with Hu Han-min whilst we were dealing with the more reasonable Minister for Foreign Affairs who with Chiang probably realizes that co-operation with foreigners and foreign powers is in China's interests whereas others led by Hu Han-min are credited with having worked to make foreigners' position impossible.'

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 7 Tour: Telegraphic [F 1217/34/10]

FOREIGN OFFICE, *March 5, 1931, 4.30 p.m.*

Your telegram No. 10.¹

1. You may now regard my telegram No. 40² as containing text of your instructions.

2. We understand that American negotiations have been transferred to Nanking. Co-operation of United States Government in a common policy should be secured by consultation in first instance between you and your American colleague. You should not therefore definitely offer to surrender criminal jurisdiction until you have discussed the matter fully with him. His Majesty's Ambassador at Washington to whom this telegram is being repeated will make simultaneous communication to State Department.

3. Pending consideration of question of criminal jurisdiction by United States Government you might open negotiations by stating that His Majesty's Government are prepared to make considerable concessions in order to arrive at an agreed settlement of the whole question, but that in order to carry public opinion in this country with them it is essential that the Chinese Government should be prepared to give complete satisfaction in regard to certain matters which are regarded as being of vital importance.

4. The most important of these are (a) powers and functions of legal advisers, (b) legal safeguards as regards liability to taxation (including methods of assessment, of deciding disputed assessments, of collection and of enforcing payment), (c) exclusion of specified areas and (d) if and when Chinese take over criminal jurisdiction, safeguards as regards arrest, bail, imprisonment and trial. In the case of (a) (b) and (d) details are of the essence of the matter and their negotiation may take a considerable time. It seems desirable therefore that these questions should be attacked first on the assumption (a) that failing arrangements which would satisfy public opinion in this country no agreement is possible and (b) in return for such arrangements His Majesty's Government are prepared to adopt a liberal attitude.

A further telegram³ will follow on a few points of detail.

China Association have been informed in confidence of concessions which we are ultimately prepared to make if necessary, and are anxious that Shanghai Association and Chamber of Commerce should also be informed. I shall be glad if you will take them into your confidence as soon as you find it possible to do so.

Repeated to Washington No. 148.

¹ No. 360.

² No. 358.

³ Not printed.

No. 363

Mr. A. Henderson to Sir R. Lindsay (Washington)

No. 149 Telegraphic [F 1217/34/10]

FOREIGN OFFICE, *March 5, 1931, 4.30 p.m.*

My despatch No. 228¹ and my telegram to Nanking No. 7².

Please communicate personally to United States Government gist of instructions telegraphed to Sir M. Lampson and explain that in the opinion of His Majesty's Government the matter to which the greatest importance should be attached, is the securing of really satisfactory safeguards in matters of detail—particularly those enumerated in paragraph 4 of my telegram under reference. His Majesty's Government believe that in order to secure these safeguards, it will be necessary to make a definite offer to surrender criminal jurisdiction. They have, however, abstained from authorising Sir M. Lampson to make this offer, pending consideration of the question by the United States Government. In the event of the United States Government agreeing with the general line of policy laid down in the instructions to Sir M. Lampson, it is hoped that they will telegraph in that sense to the United States Minister in China who, it is understood from your despatch No. 271,³ has now been entrusted with the conduct of the negotiations. Should the United States Government adopt this course, His Majesty's Government would then propose that it be left to the discretion of the United States and British Ministers to decide in consultation when the right moment for the offer to surrender criminal jurisdiction to be made has arrived, and to act accordingly.⁴

You should communicate confidentially to the United States Government views of Japanese Chargé d'Affaires in Nanking telegram No. 8.⁵

Repeated to Nanking No. 8 Tour.

¹ No. 358 was repeated to Washington in Foreign Office despatch No. 228 of February 20.

² No. 362.

³ No. 357.

⁴ A communication in this sense was made to the State Department by Sir R. Lindsay on March 7. See *Foreign Relations of the United States 1931*, vol. iii, pp. 741-2.

⁵ No. 359.

No. 364

Sir M. Lampson (Nanking) to Mr. A. Henderson

(Received March 5, 5.0 p.m.)

No. 19 Tour: Telegraphic [F 1289/34/10]

NANKING, *March 5, 1931, 7.0 p.m.*

My telegram No. 12.¹

United States Minister who had reported my renewed suggestion of desirability of his negotiating here has received reply that United States Govern-

¹ No. 361.

ment are not yet prepared for that. But meantime he has received renewed instructions to give me his moral support. He is to see Minister for Foreign Affairs and indicate that British and United States Governments stand together and that there is no question of any competition between us or selling our pass over one another's heads.²

2. I have informed both him and Japanese Chargé d'Affaires that whilst I am still without instructions I have taken the line in conversation with Wang Chung-hui, that Chinese Government have more to gain than we by speedy settlement and more to lose by failure seeing that we are '...³ *beati possidentes*'⁴ and that I expect my instructions to be 'very firm' on four cardinal principles at issue: and that I believe this argument impressed him in view of evident Chinese desire to come before the People's Conference in May with *some* settlement of this question.

3. There is some soreness in State Department over a conversation of Castle with Japanese Ambassador, in reporting which to Tokyo latter stated that America had decided to transfer negotiations to China. State Department deny this and are contradicting it through United States Minister both to Japanese Chargé d'Affaires and to me.⁵

Repeated to Peking.

² See *Foreign Relations of the United States 1931*, vol. iii, pp. 738-9.

³ The text is here uncertain.

⁴ i.e. with the advantage of possession.

⁵ Cf. *ibid.*, p. 745.

No. 365

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 6, 3.45 p.m.)

No. 20 Tour: Telegraphic [F 1300/34/10]

NANKING, March 6, 1931, 7.30 p.m.

Reuter's London message of March 3 is starred in press here quoting a semi-official statement that extraterritoriality must go and that negotiations are already well on the way to that end. In calling attention to this message United States Minister informs me that Chinese circles are much elated.

2. Please see my telegram No. 19,¹ paragraph 2. For tactical reasons I am taking line that we are comparatively indifferent whether we settle now, that China has more than we to lose by delay and that it is for them to meet our requirements if they want a quick settlement which they evidently do for domestic political reasons.

3. May I ask once more that extreme discretion and reticence be observed in anything given out to the press. It might strengthen my hand if the same line as mine were followed by leading organs at home.

Repeated to Peking.

¹ No. 364.

*Mr. A. Henderson to Sir R. Lindsay (Washington)**No. 303 [F 1086/34/10]*FOREIGN OFFICE, *March 7, 1931*

Sir,

I have had under consideration your despatch No. 271¹ of the 12th February on the subject of your conversation with Mr. Castle in which the latter enquired whether His Majesty's Government take a serious view of the possibility of the unilateral abolition of extraterritoriality by the Chinese Government in the near future, and whether they had considered how to deal with this situation if it arose.

2. His Majesty's Government have for some time past held the opinion that, as soon as the political situation in China had become stabilised by the cessation of civil war, and the present Government of China had become firmly established, the foreign Powers would be presented with the alternatives of negotiating immediately an agreed settlement of the question of extraterritoriality or facing a unilateral abrogation of extraterritorial jurisdiction. It has been possible hitherto to defer coming to grips with the question—thereby, incidentally, gaining valuable time for a thorough study of the whole problem—and at the end of 1929 means were found of rendering innocuous the long heralded mandate purporting to abolish extraterritoriality on the 1st January, 1930. It does not seem possible, however, either to prolong or to repeat these manoeuvres. There is little doubt that Mr. Castle is right in thinking that the French Ambassador has entirely misjudged the situation. The next time the Chinese issue a mandate abolishing extraterritoriality there will be no drawing back and the mandate will be enforced.

3. The three suggestions tentatively put forward by Mr. Castle do not appear to offer any effective means of dealing with the situation that would be created by the issue of such a mandate. For a number of reasons—of which the Kellogg Pact is one—His Majesty's Government cannot contemplate the seizure of Customs Houses in China. It may be many years before the Chinese ask the foreign Powers for a reconstruction loan—if, indeed, they ever do so—and a refusal would not affect their attitude towards extraterritoriality. In any case His Majesty's Government are not in favour of allowing economic and financial questions to be influenced by political considerations. It seems unlikely that a threat that the United States would withdraw their friendship from China would have any real effect upon the situation.

4. There is, therefore, no immediate and overt action that the Powers could take to counter a unilateral abrogation of extraterritoriality. They might enter a formal protest, but after that they could only wait for the situation to develop. The Chinese, while carefully avoiding anything like an open clash—as, for example, with the police of the Settlement at Shanghai—

¹ No. 357.

would act as if all treaties had been abrogated and extraterritorial rights and privileges had ceased to exist. By a process of gradual encroachment they would eventually arrive at the stage when they would arrest, try and sentence British subjects, expropriate British property without compensation, levy such taxation as they chose and compel payment by direct executive action, &c., and to all protests they would reply that extraterritoriality having ceased to exist British subjects had no higher rights than Chinese. They would refuse, as in the case of their unilateral denunciation of their treaty with Belgium, to appear before an arbitral tribunal, and the Powers would have no remedy but force, to which His Majesty's Government cannot contemplate resorting.

5. The argument has been put forward that it would be practicable to maintain extraterritorial privileges by force because the strikes and boycotts which such a policy might provoke would have no terrors at a time when trade is practically at a standstill. It would, however, be very difficult, in face of a universal conspiracy to ignore extraterritoriality, to decide exactly when, where and how force should be applied. Force would not be available to preserve every extraterritorial privilege of every foreigner in China, nor would public opinion in the countries concerned approve the use of force for such a purpose. There would have to be some particularly spectacular breach of extraterritorial rights to justify the use of force. This might not occur for many months, during which the whole position would be rapidly crumbling. When it did occur the nation resorting to force would, in accordance with time-honoured practice, be singled out for attack by strikes and boycotts and, as has invariably happened in the past, that nation would have to stand alone and bear the brunt of all the loss inflicted. Irreparable damage might be suffered, but, so far as the preservation of extraterritoriality was concerned, the sacrifice would have been made in vain. The persistent ignoring of extraterritoriality would go on as before, and in the end foreigners would fall completely under Chinese jurisdiction without any treaty safeguards whatever. Once this position had been reached, it might be possible, and even desirable, to regularise it by subsequent treaties, but the opportunity of obtaining safeguards of real value would have been lost.

6. These considerations have led His Majesty's Government to the conclusion that, as soon as the danger of unilateral abolition of extraterritoriality has become serious and imminent, the wisest policy is to avert it by timely and liberal concessions to Nationalist sentiment. If negotiations are undertaken in this spirit before the Chinese have braced themselves for the final irretrievable step of unilateral action, it should be possible to obtain, in return for a surrender of extraterritorial jurisdiction, safeguards providing that foreign nationals shall be subject only to properly promulgated and easily ascertainable laws together with further safeguards relating to the administration of these laws. Against the arbitrary will of the executive or of the militarists it will then be possible to appeal to the definite stipulations of an international agreement accepted by a modern Chinese Government.

7. It is not to be expected that the time will ever arrive when the foreign

nationals residing in China will agree that the state of the Chinese laws and the arrangements for their administration are such as to justify a relinquishment of extraterritorial rights. They will maintain that the surrender—whenever it takes place—is premature, and there will probably be considerable justification for such a view. His Majesty's Government, however, believe that the true criterion is not whether the Chinese are fit to assume jurisdiction over foreigners, but whether the Chinese are politically sufficiently stabilised to give effect to their determination to put an end to the extraterritorial system. When that time has arrived, the choice that lies before foreign nationals in China is submission to Chinese jurisdiction with reasonably adequate safeguards duly negotiated and embodied in a treaty or submission without any safeguards at all.

8. I should be glad if you would inform Mr. Castle of the views of His Majesty's Government as set out above, and at the same time take the opportunity of conveying to him the pleasure with which I have learnt of the instructions on this subject which have been sent to the United States Minister in China. The attitude which he is to adopt is calculated to facilitate close consultation between the two Governments, and should therefore conduce to a satisfactory solution of the whole problem.²

I am, &c.,

ARTHUR HENDERSON

² A copy of this despatch was sent to Peking on March 11.

No. 367

Sir R. Lindsay (Washington) to Mr. A. Henderson

(Received March 9, 9.0 a.m.)

No. 168 Telegraphic [F 1315/34/10]

WASHINGTON, March 8, 1931, 3.0 p.m.

My immediately preceding telegram.¹

I said that instructions to Sir M. Lampson were evidently sent on assumption that American negotiations had been transferred to Nanking. It seemed to me doubtful if this was correct and could he say anything to me about the present situation.

He reported (*sic* ? repeated)² to me his own personal conviction that they ought to be transferred. It is clear from what he said that State Department is in a quandary over the matter. At one moment they meant to let them fade out here and resume simultaneously in Nanking. Quite lately they nearly broke them off here but at that moment Dr. Hornbeck expressed apprehension that if they acted so Chinese Government in view of fact that they have given their Minister here full powers for negotiation might retaliate by refusing to negotiate any further either here or in Nanking. This

¹ No. 368. These telegrams were despatched out of order.

² The text is here uncertain.

he thought would be not only extremely embarrassing to United States Government but also prejudicial to negotiations of other Powers. State Department was now consulting United States Minister in Peking about this. He himself was meaning now to propose to Secretary of State to break off with Wu here on the ground that they had discussed with him for many months and had achieved absolutely no result except that State Department had received last month from Chinese Minister something resembling an ultimatum which created an unpleasant impression. He hoped he might get this scheme through.

It is clear that Mr. Castle is very anxious to transfer negotiations but that he has his difficulties in the Department.

No. 368

Sir R. Lindsay (Washington) to Mr. A. Henderson
(Received March 9, 9.0 a.m.)

No. 167 Telegraphic [F 1314/34/10]

WASHINGTON, March 8, 1931, 5.0 p.m.

Your telegram No. 149.¹

I gave to Mr. Castle on March 7 substance of your instructions to Peking about extraterritoriality. He said they corresponded very . . .² indeed to the views held by United States Government, there being only some slight differences in emphasis. United States Government would be extremely reluctant to abandon Hankow, Canton and Tientsin as excluded areas but would not be able to hold out if they were conceded by His Majesty's Government whose interests there were so much greater. Secretary of State would be most unwilling to surrender criminal jurisdiction but Mr. Castle personally thought it would have to be conceded eventually: he could not give me off-hand any reply to request for instructions in similar sense to United States Minister.

¹ No. 363.

² The text is here uncertain.

No. 369

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 16 Tour: Telegraphic [F 1300/34/10]

FOREIGN OFFICE, March 10, 1931, 2.10 p.m.

Your telegram No. 20 Tour.¹

No statement of the kind has been made and Reuters deny having sent any telegram at all.

We are not inspiring press in sense suggested in paragraph 2 as your tactics contain an element of bluff and require too close a touch with situation in China to make it easy to employ them here without risk.

¹ No. 365.

No. 370

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 13, 9.0 a.m.)

No. 34 Tour: Telegraphic [F 1421/34/10]

NANKING, March 12, 1931¹

My telegram No. 30,² paragraph 3.

French Counsellor of Legation similarly informed March 11.

2. He states that in French proposals to Chinese Government evocation is omitted and co-judges not mentioned; but in reserved areas Yunnan railway zone is included. As regards minor safeguards French draft is much shorter than ours and more general in terms which French Government consider safer than too detailed and precise provisions.

3. Minister for Foreign Affairs has taken the same line with him as with me but said that French formula on minor safeguards presented no difficulty. I have asked to be supplied with text thereof which may help us in our negotiations.

Repeated to Peking and Tokyo.

¹ The time of despatch is not recorded.

² Not printed. This telegram of March 11 discussed Sir M. Lampson's tactics in his negotiations with Dr. Wang; the third paragraph reported that he had informed the Japanese Chargé d'Affaires on March 10 of the course of those negotiations. Mr. Shigemitsu gave Sir M. Lampson a 'most formal assurance that he would work in the closest co-operation with us throughout and I promised to do the same'.

No. 371

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 13, 12.45 p.m.)

No. 39 Tour: Telegraphic [F 1451/34/10]

NANKING, March 13, 1931, 5.35 p.m.

Extraterritoriality.

United States Minister is informed by State Department that Chinese Minister has been notified that negotiations at Washington are now suspended and will be entrusted to United States Minister in . . .¹

2. United States Minister is directed to take no action here pending further instructions which he has not yet received.

Repeated to Peking and Tokyo.

¹ The text is here uncertain. The word 'China' was presumably omitted.

No. 372

Sir R. Lindsay (Washington) to Mr. A. Henderson

(Received March 14, 9.30 a.m.)

No. 180 Telegraphic [F 1464/34/10]

WASHINGTON, March 13, 1931, 6.10 p.m.

Extraterritoriality.

I gave Mr. Castle today substance of Sir M. Lampson's telegram No. 25.¹

He told me that on March 11 he had sent for Chinese Minister and told him that as no progress had been made in negotiations here Secretary of State was sending instructions to United States Minister to begin discussions with Chinese Government. Wu was rather taken aback but contented himself with prophesying that within a few weeks or months he would again be negotiating here.

Negotiations have thus been definitely transferred.

Referring to Sir M. Lampson's instructions Mr. Castle raised question of reservation 'as a last resort' of International Settlement of Shanghai only. He pointed out that it was important to keep in touch with French and Japanese and that this suggestion would never meet with their consent. He mentioned it particularly as Italian and Japanese Embassies here had heard a report that some such surrender was contemplated. I said you could only have contemplated it as an extremely remote contingency.

¹ Not printed. This telegram of March 9 reported that Sir M. Lampson had formally opened negotiations with Dr. Wang on March 8. For an account of the discussions on that day see No. 460, paragraphs 6-8.

No. 373

Mr. A. Henderson to Mr. Snow (Tokyo)

No. 140 [F 1397/34/10]

FOREIGN OFFICE, March 13, 1931

Sir,

On the 9th March the Japanese Ambassador called at the Foreign Office and handed to Mr. Mounsey an *aide-mémoire* with annex (copy of which is enclosed herewith),¹ setting out the policy of the Japanese Government on the subject of extraterritoriality in China. The Japanese Ambassador asked if he could be furnished, for the confidential information of his Government, with notes on the following two points:—

(I) How far will His Majesty's Government be prepared to give way with regard to such points as co-judges, evocation, civil and criminal jurisdiction and reserved areas;

¹ Not printed. This *aide-mémoire* enclosed the memorandum also communicated to the State Department and printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 747-8.

(II) What conditions will His Majesty's Government make for the protection of British subjects and British interests in China in return for the relinquishment of extraterritorial rights.

2. Mr. Mounsey said that the answer to the first point must depend to some extent on the terms which His Majesty's Government were able to obtain from China under the second point, and also on the time factor in the process of abolition of extraterritoriality. As regards the first point, His Majesty's Government were specially anxious to secure the complete immunity of certain areas, such as Shanghai, from the concessions it was proposed to make and would sacrifice some of the points touched on in order to secure this object.

3. A copy of a letter² which was sent to the Japanese Ambassador on the 12th March, enclosing an *aide-mémoire*³ on the subject of the points referred to in the interview is enclosed for your information.⁴

I am, &c.,

ARTHUR HENDERSON

² Not printed.

³ Not printed. The *aide-mémoire* was on the lines of No. 358.

⁴ A copy of this despatch was sent to Sir M. Lampson as No. 244 to Peking.

No. 374

Mr. Snow (Tokyo) to Mr. A. Henderson (Received April 20)

No. 117 [F 2141/1391/10]

TOKYO, March 18, 1931

Sir,

In my telegram No. 252¹ of the 23rd December last I had the honour to report that the Vice-Minister for Foreign Affairs had informed me, with a confidence of expression which surprised me, that the Chinese Minister had recently made such satisfactory declarations to the Japanese Government that they looked forward with no anxiety to the course which events might follow in China during the following year.

2. As reported in my telegram No. 253² of the same date, what purported to be an account of the Chinese Minister's declaration appeared here in the vernacular press, stating, *inter alia*, that Mr. Ouang had exchanged views with Baron Shidehara, the Japanese Minister for Foreign Affairs, on the subject of certain rumours to the effect that the Nationalist Government intended to adopt a firm policy towards Japan and also in regard to the question of railways in Manchuria and Mongolia.

3. It will be recalled that in the speech which Baron Shidehara, in his capacity as Minister for Foreign Affairs, delivered on the 22nd January last at this year's opening session of the Japanese Diet,³ he recommended as the basis of future Sino-Japanese relations the adoption of a policy of mutual co-

¹ No. 344.

² Not printed. See No. 344, note 2.

³ See No. 354.

operation in an endeavour to discover ways to ensure the common welfare of both countries. While I discussed this recommendation, in so far as its observance by Japan was concerned, I felt that it lay beyond my scope to examine what seemed a more doubtful point, viz., how far the same policy would commend itself to China.

4. In the circumstances I was not surprised at being given to understand fairly clearly, recently, in an authorised quarter, that the satisfactory declarations which the Japanese Government received from the Chinese Minister in December had not been obtained without some previous plain speaking on the part of Baron Shidehara to Mr. Ouang. Indeed, I was informed that Baron Shidehara had found occasion to remark that if China resorted to the use of propaganda or threats of force against 'foreign' nationals, her relations with 'foreign' countries would 'deteriorate to an inconceivable extent'. Considerable further light appears to be thrown by this information on Baron Shidehara's own undertaking in his speech of the 22nd January, to abstain from the use of propaganda or threats against China.

5. It is beyond my province to attempt to estimate what precise degree of value attaches under present circumstances to a guarantee conveyed by a representative of the Nanking Government in regard to the question of railways in Manchuria. I have, however, seen a report that it has been agreed between Nanking and Mukden that Nanking will recognise the result of any negotiations on the question which may be completed between the Japanese and the Manchurian authorities. However that may be, the Japanese Government's actions, no less than their words, have shown the importance which they attach to Mr. Ouang's declaration. Indeed, they lost no time in despatching Mr. Kimura, one of the directors of the South Manchuria Railway Company, to discuss with the Manchurian authorities the general problem of Manchurian railways.

6. The preliminary discussions, which were begun last month, were terminated on the 11th instant. I understand that agreement has been reached on the general principle of the desirability of co-operation and not competition between Chinese and Japanese railways in Manchuria, and that Mr. Kimura is shortly to begin discussions at Mukden of the detailed arrangements by which effect can be given to this agreement.

7. Mr. Tani, head of the Chinese Department of the Japanese Foreign Office, has promised to furnish me with full details of the course of the negotiations, and I understand that the Japanese Ambassador in London has also been instructed to keep you informed. Mr. Tani has been at pains to assure me that whatever the result of the negotiations, the principle of the Open Door will be maintained.

8. I hope to furnish you, by the next opportunity, with a further and fuller report on the questions at issue.

9. A copy of this despatch is being forwarded to His Majesty's Minister at Peking.

I have, &c.,
T. M. SNOW

Mr. A. Henderson to Sir R. Lindsay (Washington)

No. 210 Telegraphic [F 1564/34/10]

FOREIGN OFFICE, March 20, 1931, 4.50 p.m.

Extraterritoriality.

1. Telegrams Nos. 41 to 54 from Sir M. Lampson¹ copies of which went to you by bag on March 17 indicate that progress of negotiations has been unexpectedly rapid. By concentrating on details first, leaving major issues for subsequent negotiation, it seems likely that Sir M. Lampson will succeed in inducing Chinese Government to agree to practically all the safeguards that we want except reserved areas, as to which Dr. Wang is at present inflexible. Sir M. Lampson expects that the negotiations will shortly reach a stage when, all other points having been disposed of, he will be in a position to offer to surrender criminal jurisdiction in return for the exclusion of certain areas.

2. His Majesty's Government were informed by the United States Embassy on March 19 that the United States Government concur in their view that in order to bring the negotiations to a successful conclusion the right of criminal jurisdiction will have to be abandoned. Sir M. Lampson will therefore now proceed to make this offer when in his judgment the psychological moment shall have arrived.

3. As regards excluded areas the reference in the instructions to Sir M. Lampson to the International Settlement at Shanghai was intended to indicate what, having regard to purely British interests, was the final point beyond which no further concession would be made. His Majesty's Government however fully realize that the interests of other Powers are closely concerned in this matter and may not be identical with the interests of His Majesty's Government. In these circumstances His Majesty's Government entirely share the view of the United States Government that the negotiations, particularly on this point, conducted by each Power should take into consideration the special interests of the other most interested Powers.

4. You should take an early opportunity of explaining the position to the State Department.

Repeated to Sir M. Lampson, Nanking No. 33 Tour.

¹ Not printed. For a general account of Sir M. Lampson's negotiations on extraterritoriality see No. 460.

No. 376

Sir R. Lindsay (Washington) to Mr. A. Henderson
(Received March 23, 8.45 p.m.)
No. 197 Telegraphic [F 1629/34/10]

WASHINGTON, March 23, 1931, 12.35 p.m.

Extraterritoriality.

1. I communicated substance of your telegram No. 210¹ to Hornbeck. He said United States Minister's instructions as regards paragraph two correspond very closely to those of His Majesty's Minister.

2. He told me United States Minister has been instructed in general not to commit himself definitely to concession on any one point until he is assured that an agreement on all points is secured.

¹ No. 375.

No. 377

Mr. A. Henderson to Lord Tyrrell (Paris)
No. 641 [F 1559/34/10]

FOREIGN OFFICE, March 24, 1931

My Lord,

The French Ambassador interviewed Mr. Mounsey at the Foreign Office on the 18th instant on the subject of extraterritoriality in China. The French Government had heard from their Minister in China that His Majesty's Government in the United Kingdom proposed to agree to the total abolition of extraterritoriality in China excepting only in the International Settlement at Shanghai. The Ambassador was instructed to express the surprise of the French Government at this news. He left with Mr. Mounsey a note on the instructions he had received from his Government, together with a copy of the French counter-proposals which he said were now being presented to the Chinese Government. Copies of these documents are enclosed herewith.¹

2. Mr. Mounsey explained that the report of the French Minister was so bald as not to present a true picture. He promised to send His Excellency a memorandum which would dispel any misapprehension that the French Government might be under, both as to the present position of the negotiations and as to the policy of His Majesty's Government towards this question. A copy of the memorandum which is now being sent to the French Ambassador is enclosed herewith for Your Lordship's information.²

I am, &c.,

ARTHUR HENDERSON

¹ Not printed.

² Not printed. This memorandum of March 23 gave a brief account of Sir M. Lampson's negotiations on extraterritoriality with Dr. Wang, and of the policy of His Majesty's Government.

No. 378

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 27, 9.0 p.m.)

No. 73 Tour: Telegraphic [F 1767/34/10]

NANKING, March 27, 1931¹

Japanese Chargé d'Affaires is making no headway whatever on extra-territoriality. I have explained in general terms latest stage of our negotiations.

2. United States Minister and I continue to pool all instructions, drafts etc. He has not so far begun serious negotiations here and shows little inclination to do so.

French Minister has apparently come to all but a deadlock over major principles at stake. He knows my position in general terms.

3. Japanese Chargé d'Affaires repeats his conviction that Minister for Foreign Affairs' position is far from secure and that highest authorities regard him as too unyielding over extraterritoriality. But he does not give source of his information though he never fails to revert to it when we meet, giving impression that it may come from President himself. If true it should help us but we should not however be influenced by it—and so far Minister for Foreign Affairs has been very reasonable with me. He will doubtless be otherwise over reserved areas discussion which I hope we may reach next week. During my recent cruise² I impressed privately and forcibly upon Admiral Chen who is in close and daily contact with the President that it will be most unfortunate if Minister for Foreign Affairs forces deadlock on that issue.

Repeated to Peking and Shanghai.

¹ The time of despatch is not recorded.

² See further No. 460, paragraph 19.

No. 379

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received March 28¹)

No. 74 Tour: Telegraphic [F 1772/34/10]

NANKING, March 28, 1931¹

Japanese Minister for Foreign Affairs has received a telegram from Paris indicating that French Government 'are rather anxious' regarding my extra-territoriality negotiations and suggesting to Japanese Government desirability of a common front. Minister for Foreign Affairs forwards this through Japanese Chargé d'Affaires here for my confidential information.

2. In asking latter to thank His Excellency for this warning I have explained that any French fears are groundless and unjustified and that I have

¹ The times of despatch and receipt are not recorded.

kept the French Minister (? informed)² of general lines of my discussions. I added that to go further and disclose texts of articles not yet agreed upon by either side would be not only dangerous as (? they might)² possibly get back to the Chinese but also confusing and might hamper common cause for which we are in fact working.

3. It is not easy to keep this mixed team in line and good humour but I am doing my best and will make a point of continuing to inform the French Minister of general lines we are following. They certainly have no legitimate ground for complaint on that score up to date and I feel sure that he personally has no feelings of the kind.

Repeated to Peking and Tokyo.

² The text is here uncertain.

No. 380

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 30, 3.10 p.m.)

No. 87 Tour: Telegraphic [F 1786/34/10]

NANKING, March 30, 1931, 5.40 p.m.

Extraterritoriality.

The time having come to place the cards on the table, I saw Minister for Foreign Affairs alone this morning and told him that if he would meet us on reserved areas I could practically promise him criminal jurisdiction subject to necessary detailed safeguards regarding arrest, imprisonment etc.

2. He replied by saying that attitude of Central Political Council was definite—no co-judges, no criminal jurisdiction, no reserved areas. He would be especially frank: if they met us on our four reserved areas (Shanghai, Tientsin, Canton and Hankow) the ground would be cut from under their feet in meeting forthcoming Japanese demand for reserved areas in Manchuria to which they could never agree. He knew that we had no ulterior motives and that our whole policy was a *bona fide* trade policy—no one suspected us of political designs; but his Government had to be extremely careful of doing anything which weakened their case *vis-à-vis* Japan.

3. I argued that on the contrary to give us a few areas would strengthen his hands. No one could attribute any special *political* interest to those areas. Moreover to give us them would ensure that we carried British public opinion not only here but at home with us in abandonment of extraterritoriality which was more important than he perhaps realised.

4. Finally he offered to *recommend* to Central Political Committee reservation of Shanghai alone. But it would have to be strictly limited as to time. I told him that was not enough, and that question of time was one concerning the whole treaty, and pressed him to increase his bid: but he would not respond and talked of a breakdown, and of the disastrous results it would entail: he

was sitting on safety valve and all sorts of unpleasantness would result if we did not settle before May 5. I enquired why this indecent haste, and why talk about a breakdown? It was for him to decide and if he wished to break off...¹ it be, but China at a critical moment of reconstruction could hardly be the gainer if she forfeited our goodwill. I should not personally admit any breakdown; rather, as in normal negotiations, that we had reached a crucial stage where the two Governments must sit back and take full stock of the position in the hope of finding further points of contact. His haste for May 5 was purely his domestic concern: to me it smacked of unwise haste over a matter of first-class importance to the whole fabric of our future relations.

5. Several times I purposely drew him on other ground in order to show my lack of anxiety—e.g. shipping, personal status, etc. But he kept coming back to his offer of Shanghai.

6. Finally I asked him if this meant the 50 li limit of our September draft, but at this he jibbed so I did not pursue the matter, merely saying that it would be a thousand pities if he held up a settlement over reserved areas, where he must himself know we were right. We must have four areas and it was no use leading him to suppose we should take less.

7. On leaving I said that as he was to be absent in Shanghai over Easter I too would go north, meantime reporting position to you, . . .² I should doubtless be returning shortly when his Government would have had a longer time to realise what they were throwing away through not meeting us over reserved areas.

8. Conversation was throughout most informal and intimate and I am sure has advanced matters a little. I left it that if before we separate . . .² manage to get from you draft of shipping article I shall take that up with him in hope of adding it to the body of already agreed texts—the pillars of the bridge we hope ultimately to span.

Repeated to Peking, Tokyo, and Shanghai.

¹ The text is here uncertain. Another text here read: 'break off, (? on his) head (? be it), but China'.

² The text is here uncertain.

No. 381

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received March 31, 3.10 p.m.)

No. 92 Tour: Telegraphic [F 1818/34/10]

NANKING, March 31, 1931, 6.0 p.m.

Extraterritoriality.

On March 30 in the course of general conversation Minister for Foreign Affairs informed United States Minister that he had telegraphed to Chinese Minister at Washington results of negotiations so far reached with us and instructed him to invite State Department to resume negotiations in Washington on a similar basis.

2. On Mr. Johnson giving me above information and asking for my views and if he could help I said that this seemed to me a backward step which would re-open possibilities of Chinese playing us one against the other and I indicated my hope that United States Government would see through this manoeuvre and not fall in with it. He concurred.

3. I hope nothing will come of this attempt to separate us again.
Repeated to Peking.

No. 382

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received April 1, 9.0 a.m.)
No. 89 Tour: Telegraphic [F 1840/34/10]

NANKING, March 31, 1931¹

My telegram No. 87.²

I fully informed United States Minister.

2. He is purposely refraining from seeing Dr. Wang on extraterritoriality or showing any anxiety to push on his negotiations in view of obstinate Chinese attitude as defined by Chinese Minister at Washington. He asked me if this was a helpful line to our negotiations and I replied that it certainly was though I did not wish to influence his judgment. If Chinese realized that they could not play upon America it should make them more amenable to my minimum demands e.g. four reserved areas.

Repeated to Peking.

¹ The time of despatch is not recorded.

² No. 380.

No. 383

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 2, 10.0 p.m.)
No. 91 Tour: Telegraphic [F 1852/34/10]

NANKING, March 31, 1931¹

My telegram No. 74, tour series² ³

I have today informed French Minister *very confidentially* of latest position including result of my talk with Minister for Foreign Affairs on March 30.⁴

2. He is making heavy weather in his negotiations and complains of unyielding attitude of his Government prompted he believes by French Ambassador at Tokyo who from a distance criticises any form of conciliation he suggests.

3. Minister himself is most anxious to rendite French Concession at Hankow which he regards as nothing but an anxiety and an encumbrance. But he suspects that French Ambassador in league with Japanese Government

¹ The time of despatch is not recorded.

² No. 379.

³ The text is here uncertain.

⁴ See No. 380.

who also have concessions there is blocking this. On Kwangchouwan French Government are obdurate with result that on no point can French Minister destroy growing Chinese conviction that French are unreasonably unyielding.

4. He showed keen suspicion of Americans over extraterritoriality complaining that United States Minister never told him anything so I took pains to reassure him. I was sure United States Minister was doing nothing whatever which would weaken the common cause.

5. I explained that my idea was to return to Nanking after Easter recess and I would discuss negotiations forthwith with considered opinion of His Majesty's Government on stage we had now reached. In the meantime I hinted that it would be unfortunate if the French weakened position by giving away any of the points I had already gained and of which he was aware. He said he fully appreciated that and I need have no fear so far as he was concerned.

Repeated to Peking.

No. 384

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 46 Tour: Telegraphic [F 1949/34/10]

FOREIGN OFFICE, *April 2, 1931, 6.25 p.m.*

The Chinese Minister called upon me today¹ at the House of Commons with a message from his Government to the effect that the extraterritoriality negotiations had now reached a deadlock, and to urge us to make concessions. He referred particularly to three points: evocation, criminal jurisdiction and reserved areas.

I told the Chinese Minister that on these three points still outstanding we would be prepared in order to reach a settlement to concede the request of the Chinese Government in regard to two, namely evocation and criminal jurisdiction, but His Majesty's Government could not in view of the opposition which would be aroused in this country agree to abandon their position as regards the reserved areas. I said I considered that His Majesty's Government were going a very long way to meet the wishes of the Chinese Government.

The Chinese Minister said that, without a settlement, his Government would be confronted with grave difficulties when they met their constituents on the 5th of May.

I replied that in all negotiations there must be give and take, and that we had made many concessions for the sake of a friendly settlement. I appealed to the Chinese Minister to urge these considerations upon his Government.

Before the Minister left I handed to him a short *aide-mémoire* summarising the position of His Majesty's Government. The text is contained in my immediately succeeding telegram.²

¹ *Note in original: 'Actually April 1'.*

² No. 385.

No. 385

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 47 Tour: Telegraphic [F 1949/34/10]

FOREIGN OFFICE, *April 2, 1931, 6.25 p.m.*

Following is text referred in my immediately preceding telegram.¹

His Majesty's Government in the United Kingdom are happy to observe from the reports which have been received from His Majesty's Minister in China that considerable progress has been achieved in the discussions which have been taking place between Sir M. Lampson and the Chinese Minister for Foreign Affairs on the subject of extraterritoriality.

His Majesty's Minister has informed the Minister for Foreign Affairs that if the safeguards considered essential by His Majesty's Government are accepted by the Chinese Government, they will almost certainly be prepared to surrender not only the right of evocation and the right of legal counsellors to act as co-judges, but also jurisdiction in criminal matters over British subjects. The remaining safeguard which the Minister for Foreign Affairs appears unwilling to accept is the exclusion of Shanghai, Tientsin, Canton and Hankow from the new arrangement. These areas present a special problem of their own, both on account of the size and complexity of the interests which have grown up in them, and of the fact that other Powers besides the British Empire are intimately concerned.

His Majesty's Government trust that the Chinese Government will realise the reasonable nature of the attitude which they have adopted and the necessity of the safeguards which they consider essential in this most important and difficult problem. They earnestly hope that the Chinese Government will weigh most carefully the considerations urged by Sir M. Lampson. They attach great importance to an early termination of the negotiations and the conclusion of a satisfactory agreement. They would deplore it if the Chinese Government were to take up an attitude which would prevent such a satisfactory outcome.

¹ No. 384.

No. 386

Sir M. Lampson (Nanking) to Mr. A. Henderson

(Received April 5, 9.30 a.m.)

No. 102 Tour: Telegraphic [F 1863/34/10]

NANKING, *April 2, 1931*¹

In taking leave of Minister for Foreign Affairs last night I enquired if he had further considered our conversation of March 30 (my telegram No. 87²) and was now prepared to make any advance of³ his offer of Shanghai only.

¹ The time of despatch is not recorded. ² No. 380. ³ Another text here read 'on'.

2. He replied it was quite impossible to offer more—and even that offer was dependent upon (1) its being approved by Central Foreign Relations Council and (2) as in [*sic* ? upon] reservation being merely temporary.

3. I warned him that my hint about surrender of criminal jurisdiction was also strictly conditional and that unless he came further to meet us on one point (out of original four) I foresaw gravest difficulties: I begged him to weigh most carefully the responsibility he would incur if he threw away on that account what promised to be an excellent arrangement for his country.

4. He remained unyielding so I left it that I must await reaction of the⁴ situation as now fully laid before you. Meantime let him see if he could get anything like such terms from other Powers with whom he was negotiating.

5. Our discussion was as usual conducted in the best of tempers on both sides.

6. I have since seen my interested colleagues and do not think there is any danger of their weakening regarding reserved areas. They all realise the necessity of strengthening my hands in that respect. I have arranged to keep in closest touch with all three of them.

Repeated to Peking and Tokyo.

⁴ It was suggested in the Foreign Office that this passage should read: 'await your reaction to the'.

No. 387

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received April 3, 3.0 p.m.)

No. 95 Tour: Telegraphic [F 1853/34/10]

NANKING, April 3, 1931, 1.40 p.m.

Extraterritoriality.

As it is desirable to take advantage of pause in negotiations during this interval to clear our minds as far as possible on outstanding subjects I request instructions on following points.

2. Trade and residence in interior. This has not yet been seriously discussed but I gather Chinese attitude to be that they will not throw open interior until relations are completely reciprocal and all special foreign privileges given up including Concessions and Settlements, inland navigation and cabotage, foreign troops on Chinese soil and foreign men of war in Chinese waters and so on. Chinese know that opening of interior is their one real lever for ridding themselves of foreign privileges and I doubt our being able to move them on this point. Failing anything better we should be able to secure a formula on lines of reciprocal declaration contained in Annex 3 to Sino-Italian Treaty of November 27, 1928,¹ accompanied by a reciprocal provision giving most-favoured-nation treatment in regard to residence and trade on lines of that contained in second sentence of Article 5 of Sino-Czecho[slovak] Treaty of February 12, 1930.² Would above meet our case?

¹ See *British and Foreign State Papers*, vol. 130, p. 486.

² See *ibid.*, vol. 133, p. 205.

3. Chinese are sure to insist on a third language authoritative text. I suggest French and that French translation be made in London.

4. Duration. We stipulate in our draft for ten years for whole treaty. Chinese will doubtless strongly object or at any rate refuse to agree to so long a period for certain special arrangements such as any areas that may be reserved (e.g. Shanghai, Tientsin etc.), special Chambers and legal counsellors. What should be my line?

5. I also still await instructions re drafts regarding personal status (see my telegram No. 68, tour series³), shipping and ratifications (see your telegram No. 35³).

Repeated to Peking.

³ Not printed.

No. 388

Sir M. Lampton (Nanking) to Mr. A. Henderson
(Received April 5, 10.0 a.m.)

No. 104 Tour: Telegraphic [F 1864/34/10]

NANKING, April 4, 1931¹

My telegram No. 102.²

Dr. Wang Chung-hui shows more accommodating attitude. He boils down our points of divergence to (a) size of reserved areas (I am not sure he did not mean the number) and (b) length of time. He pressed me hard on both but I limited response to saying that four areas as defined in our draft of September 11³ and ten years as therein stipulated were our minimum. He said 'reduce both and we meet you'. I replied that was impossible. He then said what about Concessions? Shameen was but a 'slip of a place'. Why not include that in our settlement? I pointed out that that was another question altogether and our policy was fully on record in our January offer of 1927.

2. He made no secret of his intense anxiety to come to terms with us before May 5. I said very well then meet our perfectly reasonable minimum of four reserved areas and ten years.

3. This conversation has probably done good and I think that he will use his influence to try and strike some bargain on lines of his (a) and (b) above. He asked whether I should wait for the next move from them and I said 'yes', seeing that possible idea of throwing in Shameen has long been at the back of my mind. Do you attach sufficient importance to four reserved areas and ten years duration to think it worth while exploring this possibility in case of need? If so I presume any squaring of the French would be done in London.

Repeated to Peking.

¹ The time of despatch is not recorded. The telegram was drafted on April 2.

² No. 386.

³ See enclosure 2 in No. 320.

No. 389

*Mr. A. Henderson to Sir M. Lampson (Peking)*¹
No. 106 Telegraphic [F 1864/34/10]

FOREIGN OFFICE, *April 13, 1931, 5.0 p.m.*

Your telegram No. 104.²

Possibility of surrendering Shameen if necessary in order to secure reserved areas and ten years duration of treaty is certainly worth considering, but I do not wish to consult French Government (without such consultation at least we cannot make any advances) unless and until Chinese Government definitely bring the matter forward. Responsibility for doing so must be left to Chinese, who should, if they make the proposal, be made to realise that it will inevitably mean bringing the French to that extent at least into our negotiations with consequent inevitable delay in concluding any treaty.

¹ Sir M. Lampson had returned to Peking on April 4. He left again for Nanking on April 14.

² No. 388.

No. 390

Sir R. Lindsay (Washington) to Mr. A. Henderson
(Received April 15, 9.0 a.m.)
No. 230 Telegraphic [F 2061/34/10]

WASHINGTON, *April 14, 1931, 5.48 a.m.*

Peking telegram No. 92.¹

I asked Mr. Castle about this today. He said Chinese Minister had made a communication here regarding points which had been discussed between Dr. [sic] Teichman and Hsu enquiring news [sic ? views] of United States Government and making suggestions as to procedure. No reply had yet been made. I said this was no doubt an attempt to retransfer negotiations to Washington. Mr. Castle agreed and said that to do so would be the greatest mistake and he would do all he could to prevent any such action.

¹ The reference is presumably to telegram No. 92 Tour (No. 381).

No. 391

*Mr. A. Henderson to Sir M. Lampson (Peking)*¹
No. 51 Tour: Telegraphic [F 2113/34/10]

FOREIGN OFFICE, *April 16, 1931, 4.30 p.m.*

Following from Mr. Orde.

Your telegram No. 91.²

We have learnt from a reliable but secret source that in Japanese quarters

¹ This word is probably a mistake for 'Nanking', where Sir M. Lampson arrived on April 16. The telegram was repeated to Peking as No. 110.

² No. 383.

it is thought possible in view of the weak attitude of the French Minister towards the resolute demands of the Chinese on the subject of Hankow and Kwangchouwan, that the French Government may yield at any rate as regards the former. If the recovery of Kwangchouwan were to follow on that of Weihaiwei the attention of the Chinese would then be turned to Kwantung. They always regard leased areas and Settlements as in the same category, and there is also a parallel between the French and the Japanese Settlements at Hankow, and between Kwangchouwan and Port Arthur and Dairen. A French surrender in regard to Hankow and Kwangchouwan would therefore have serious consequences for Japan. Any concessions which the Chinese might win from the French would add momentum to the attack on Japan which apparently it is their intention to reserve till the last. The Japanese therefore may be anxious on the one hand not to miss a favourable opportunity for getting rid of unnecessary Settlements and disposing of the Hankow question, and, on the other hand, may urge France not to act with undue haste but to adopt a united front with Japan.

No. 392

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 52 Tour: Telegraphic [F 1853/34/10]

FOREIGN OFFICE, *April 16, 1931, 6.30 p.m.*

Your telegram No. 95.¹

1. *Trade and residence in the interior.*

It may be doubted whether conditions in China are likely within any reasonable period that we can now foresee to become sufficiently orderly to make residence in the interior a privilege of real value to British merchants. We have only pressed for it partly for the tactical advantage to be gained thereby and partly out of consideration for the views of the Japanese. The latter will probably insist very strongly on this right for their nationals but I agree that the Chinese are unlikely to give way. Our chief concern now therefore should be to avoid adopting an attitude that might prejudice the Japanese position. A formula such as you suggest would seem to leave the field open to Japan to secure better terms if she can and you may therefore, if nothing better is obtainable, proceed on these lines. Declaration in Sino-Italian treaty, however, is not applicable to circumstances of the present Treaty. It seems preferable therefore to rely on the most-favoured-nation provision in an article based on the Sino-Czechoslovak Treaty draft of which is contained in my immediately succeeding telegram.² British merchants, however, will gain nothing whatever from such an article and we may be exposed to criticism when, after the conclusion of the treaty, it is found that British merchants are still restricted to the existing treaty ports. Is there likely to be strong criticism on this point from the British communities in China?

¹ No. 387.

² Not printed.

2. You may, if necessary, agree to French as a third language. But will it not be best to follow precedent of tariff autonomy Treaty with Persia of 1928 and sign only in English and Chinese, inserting a clause providing for preparation of a French translation which shall be authoritative? Draft of such a clause, which might be inserted as a separate article, is contained in my telegram No. 54.³ This would save weeks of delay in signature and avoid serious risk of error involved in producing a French text before the others are definitely settled.

3. You might insist on ten years for the duration of the treaty as a whole, but agree, if necessary, that with regard to reserved areas, special chambers and legal counsellors negotiations may be entered into at any time after the expiry of three or five years from the date of entry into force of the treaty, with a view to making by mutual agreement such modifications and improvements as experience of the actual working of the new institutions may have shown to be desirable. There is, however, the danger that the Chinese may try to force our hand by creating difficulties in working of arrangements to be now made and may pretend, if no agreement for modification is reached, that clauses must be held to have lapsed. Wording should be sufficiently explicit to exclude latter possibility.

4. My telegram No. 55³ contains draft of article in treaty which should replace paragraph (1) of the Protocol. Gist of paragraph (2) of the Protocol will be incorporated in the ratification clause so that the whole Protocol now disappears. Drafts of preamble and ratification clause and instructions with regard to personal status will be telegraphed as soon as possible.

Repeated to Peking.

³ Not printed.

No. 393

Sir R. Lindsay (Washington) to Mr. A. Henderson (Received April 25)

No. 700 [F 2251/34/10]

WASHINGTON, April 16, 1931

Sir,

The absence in California of Mr. Castle and the intervention of the Easter holidays made it impossible for me until the 10th instant to act on your despatch No. 303,¹ Confidential, of March 7th, relative to extraterritoriality in China. On that day I had an interview with Mr. Stimson, at which Mr. Castle was also present, and I gave to him a very full account of the contents of your despatch. They both listened attentively, and they agreed that every possible action which the American Authorities had thought of as a reply to possible unilateral denunciation of extraterritoriality by China had been dealt with. Mr. Stimson said that he thought that it was an extremely pessimistic and gloomy utterance by His Majesty's Government. I said that I considered it an extremely frank statement, and a perfectly honest expression of

¹ No. 366.

the realities of the case. His Majesty's Government and all other Governments concerned were engaged in a rearguard action in which they could only expect to save a small part of that which they would like to save, and your utterance was merely a frank recognition of this state of affairs. Mr. Stimson said that that might be so, but he earnestly hoped that Dr. Wang would not learn the contents of your despatch.

2. The only other observation made referred to the reference made by yourself in paragraph 3 to the Kellogg Pact. Mr. Stimson said that as the heir to Mr. Kellogg he could hardly be expected to minimise in any way the scope of the Treaty of Paris, but he would hesitate to commit himself without serious consideration to the view that it would necessarily be applicable in the case under consideration.

I have, &c.,
R. C. LINDSAY

No. 394

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 19, 3.50 p.m.)

No. 109 Tour: Telegraphic [F 2120/34/10]

NANKING, April 19, 1931, 6.15 p.m.

Your telegram No. 93 to Peking¹ paragraphs 3 and 4.

My telegram No. 105 Tour series² shows that Minister for Foreign Affairs has been induced to accept our reciprocity *formulae* confining benefits to be enjoyed by Chinese citizens to United Kingdom only. This is a particularly delicate point and I am astonished that we have got Chinese to agree so easily. It is an evidence of their anxiety to settle quickly with us. I devoutly trust therefore that Dominions will not make difficulties. It is also most desirable to ensure that treaty will be signed on behalf of whole British Empire and that consequently British subjects from all parts thereof who will enjoy all benefits accorded to us under treaty may be covered in preamble or elsewhere as unobtrusively as possible. It is precisely this sort of thing to which Chinese on account of *amour-propre* are particularly susceptible.

Repeated to Peking.

¹ Not printed.

² Not printed. This telegram and No. 106 Tour reported Sir M. Lampson's negotiations with Dr. Wang on April 18: see No. 460, paragraph 28.

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received April 20¹)

No. 107 Tour: Telegraphic [F 2193/34/10]

NANKING, April 20, 1931¹

After disposing of detail points covered in my preceding telegrams² I stayed behind and had a long talk with Minister for Foreign Affairs alone.

2. We made little or no progress, he remaining obdurate about excluded areas, I refusing to admit any possibility of settlement on any different basis plus a ten years duration. Once more he offered Shanghai alone for strictly limited period (amount not specified) but I refused to follow him and referred him to your conversation with Chinese Minister of April 2 [1] and explicit wording of memorandum then handed to him³ of which by request I am sending him text.

3. He employed usual covert threats about public exasperation if by May 5 no settlement had been reached but I rode him off that, pointing out that now of all times China would stand to lose if she estranged Great Britain. Nor was any other Power likely to go so far as we had shown our readiness to do—e.g. surrender of criminal jurisdiction. He said, 'Others will follow.' I retorted, 'Quite so, all the more reason to give us the one point on which we are bound and determined to insist.' Once more he argued that our . . .⁴ of four areas would prejudice Chinese case for resisting Japan's and France's claims to other reserved areas elsewhere. I countered this as false logic. Shanghai, Tientsin, Hankow and Canton were all recognised centres of international trade with no political facets. Give us them and thereby strengthen Chinese case against same political reserved areas.

4. At one moment he touched on question of (? Concessions)⁴ and argued that to include Tientsin and Shameen would be to perpetuate Concession status indefinitely. I proved to him that this was not at all the case: retention of jurisdiction did not necessarily entail retention of Concessions regarding which our offer of January 1927 stood on record: but I admitted that conversely we could not abandon jurisdiction in those areas and retain Concessions. As this was becoming delicate ground I switched discussion back to restatement of our minimum, i.e. four areas and ten years and on leaving begged him to reflect most seriously before deliberately turning down this golden opportunity of settling with us. He replied that no one would regret failure more than he but that he would not dare to give way over reserved areas which neither his Government nor May conference would ever countenance. His parting words were, 'I hope our next meeting will be more satisfactory.'

5. On the whole his attitude was only what I expected. And presumably

¹ The times of despatch and receipt are not recorded.

² Not printed. See No. 394, note 2.

³ See Nos. 384 and 385.

⁴ The text is here uncertain.

the right course now is to await developments and show no sign of weakening. Meanwhile I may be able to use the interval to lobby in influential quarters.
Repeated to Peking.

No. 396

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 23, 9.0 a.m.)

No. 112 Tour: Telegraphic [F 2215/34/10]

NANKING, April 20, 1931¹

Extraterritoriality.

A conversation today with Wang Chung-hui has not advanced matters much. He was unyielding regarding four reserved areas and period of ten years and taxation (? scheme)² arguing that it was unreasonable to include (*sic*) non-treaty nationals in those areas from Chinese jurisdiction. I answered that could easily be met by limiting reservation under agreement to jurisdiction of British courts therein which should in any case I thought be done.

2. He made much of growing communist danger, saying that quite recently much literature had been caught in which present Government were violently attacked for using methods of negotiation rather than unilateral denunciation; also urging repudiation of foreign loans and liberation of the Chinese people from the burden of their service. With this he made much play adding that he was sure his colleagues could not and would not meet us over reserved areas.

3. I said that was unfortunate as we could not possibly give them up pointing out that we were in fact in a position physically to retain them though we certainly did not wish to have to do so. I handed him a copy of your memorandum of April 2 [1]³ to Chinese Minister in London to make attitude of His Majesty's Government clear.

There must be some give and take and so far it was we who were doing major part of the giving. No other Power was going as far as we and May 5 was a matter of Chinese domestic politics not of ours.

4. As we were making no headway I asked him if there was anything we could do to ease his Government's position *vis-à-vis* public opinion if they met us? But he professed to have no ideas.

5. Reverting to period of 10 years I admitted the possibility that as regards legal safeguards e.g. counsellors, etc., some shorter period might be possible. But that was a matter for discussion once principle of reserved areas was agreed.

6. I shall now let time work and see whether Chinese make any practical counter-suggestions.

Imminence of May 5 should be an incentive.

Repeated to Peking.

¹ The time of despatch is not recorded.

² The text is here uncertain.

³ See No. 385.

No. 397

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 21, 12.30 p.m.)

No. 113 Tour: Telegraphic [F 2182/34/10]

NANKING, April 21, 1931, 10.10 p.m.

Following for Sir V. Wellesley. Begins.

My telegrams will have shown how sticky Chinese are over four reserved areas. I do not believe they will give us either Hankow or Canton (though I shall continue to fight for both) and without extraterritoriality Shameen Concession is unworkable.

On the other hand I hold very strongly that reservation of Tientsin and all Shanghai (not merely International Settlement as authorised in my original instructions) is our essential minimum, and that rather than surrender on either a break with all its risks is the lesser evil.

If as I believe you are most anxious for a settlement *now* (as good a one later will be much less easy) I shall *in last resort* yield on both Hankow and Canton without further authority (this is in fact already covered by my instructions), making provision that rendition of Shameen Concession will be adjusted by subsequent agreement. But I shall hold out over Tientsin and Shanghai and intimate that unless I get all that will . . .¹ I do not believe Chinese will remain obdurate of [*sic*? if] it comes definitely to that alternative.

Time is short and I may find the issue forced any day. If so I shall act as above.

I have not informed any of my colleagues of the above nor repeated anywhere.

¹ The text is here uncertain.

No. 398

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 69 Tour: Telegraphic [F 2182/34/10]

FOREIGN OFFICE, April 21, 1931, 10.0 p.m.

Your telegram No. 113 to Sir V. Wellesley¹ was brought to my notice this evening just before I received the Chinese Minister who had asked me to see him.

The Minister said he was instructed by his Government to urge me to agree to waive the claims put forward by His Majesty's Government in respect of Hankow, Canton and Tientsin. I demurred as strongly as I could to this, repeating to Dr. Sze the arguments I had used at our last interview and bearing in mind what you said in your telegram under reference. I said that His Majesty's Government was as anxious as ever that an equitable settlement should be reached with the least possible delay and I requested

¹ No. 397.

the Minister to urge Dr. Wang without further attempts at bargaining to put to you at once some final and definitive offer on the part of the Chinese Government. I said that if you felt that you were not already empowered by your instructions to accept Dr. Wang's terms, you would refer back to me and I would issue the final instructions of His Majesty's Government.

Dr. Sze promised to inform his Government of what I had said.

No. 399

Mr. Snow (Tokyo) to Mr. A. Henderson (Received April 22, 4.30 p.m.)
No. 83 Telegraphic [F 2196/34/10]

TOKYO, April 22, 1931, 7.10 p.m.

In conversation with Vice-Minister for Foreign Affairs today I referred to approaching arrival from China of Mr. Shigemitsu to confer with Japanese Government in regard to extraterritoriality and enquired whether his return indicated any special anxiety on the part of Japanese Government whether arising from swifter progress of Sir M. Lampson's negotiations than of his own or from any other cause.

His Excellency said that speaking quite frankly though he could not say so officially Japanese Government were disturbed at speed with which Sir M. Lampson had been progressing. He realized however that the latter who had kept Japanese Chargé d'Affaires very fully informed was carrying out your instructions and that British interests in China were different from those of Japan.

After reflection he continued that he thought French Government were also disturbed at Sir M. Lampson's progress and that he did not know what United States Government thought although possibly they thought he was going too slow. He added that Japanese Chargé d'Affaires would only be here for two days and would be back at his post before the morning of. . .¹

Repeated to Nanking for Sir M. Lampson.

¹ The text is here uncertain.

No. 400

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received April 22)¹
No. 114 Tour: Telegraphic [F 2257/34/10]

NANKING, April 22, 1931¹

French Minister still makes little progress in his negotiations. His Government have turned down his proposal to rendite Hankow Concession I presume after consultation with Japan. His only achievement so far is preparedness to sign Shanghai Mixed Court agreement for two years on lines of our 1930 [agreement].

¹ The times of despatch and receipt of this telegram are not recorded.

2. I told him our extraterritoriality position to date and reminded him of my original instructions.² The time might well come when with those instructions in my possession I might rather than break altogether (? apparently)³ show readiness to accept less than all four reserved areas; and this in turn might involve Canton. He evidently realised this and spoke of necessity of consultation between London and Paris: but I rather deprecated starting lengthy confabulations at this stage and I warned him that events were likely to come (if they did come) with a rush and that I might have to use my discretion without consultation with anyone.

3. It is clear both from his attitude and that of his chief expert adviser that French Legation attach very little importance to Shameen, but that Paris is likely to take a very different view. I beg that this be on no account divulged.

Repeated to Peking.

² The reference is presumably to No. 358.

³ The text is here uncertain.

No. 401

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 24, 9.0 p.m.)

No. 119 Tour: Telegraphic [F 2260/34/10]

NANKING, April 24, 1931¹

Vice-Minister for Foreign Affairs who has been actively engaged in lobbying United States Minister today informed him that Minister for Foreign Affairs was so optimistic regarding British negotiations that he wished to know whether United States Government, who it was hoped would sign simultaneously with us desired to sign treaty here or in Washington: moment for signature might come at any time now.

2. I have so far refrained from taking up with Minister for Foreign Affairs the question of Dominions on the assumption that this will be covered in draft preamble which I still await (see my telegram No. 109²). I informed . . .³ I did not see how we could in any case do more now than initial agreed texts: nor so far as I could judge was agreement regarding areas in sight. Minister for Foreign Affairs had made no move since my interview of April 18 (see my telegram No. 107⁴).

Repeated to Peking.

¹ The time of despatch is not recorded.

² No. 394.

³ The text is here uncertain. Another text here read: 'I informed him that I'.

⁴ No. 395.

No. 402

Mr. Snow (Tokyo) to Mr. A. Henderson (Received April 27, 2.15 p.m.)

No. 84 Telegraphic [F 2295/34/10]

TOKYO, April 27, 1931, 6.25 p.m.

High authority in Japanese Foreign Office informed me today that Japanese Ambassador at Washington recently reported that he had been assured by State Department that United States Government regretted and were embarrassed by the speed at which Sir M. Lampson had been moving.

From Vice-Minister for Foreign Affairs' recent remark to me (my telegram No. 83,¹ paragraph 3, last sentence) this assurance would not appear to have been accepted by Japanese Government as very convincing.

Repeated to Nanking for Sir M. Lampson.

¹ No. 399.

No. 403

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 77 Tour: Telegraphic [F 2215/34/10]

FOREIGN OFFICE, April 27, 1931, 7.30 p.m.

Your telegrams Nos. 107¹ and 112 Tour².

The crux of the whole matter seems to be whether the Minister for Foreign Affairs is right in believing that 'others will follow' us in whatever we agree to. If not, then no matter what concessions His Majesty's Government may make China will be no nearer her goal, namely, abolition of extraterritoriality. If agreement can be reached on every point save only duration and reserved areas, it would seem advisable to pause in order to give France and Japan an opportunity of reaching the point which His Majesty's Government are now at. Knowledge of the terms of the proposed treaty should have a favourable effect on public opinion both foreign and Chinese. After such a pause therefore the atmosphere should be much more favourable for reaching a settlement with all the Powers concerned on the vexed question of excluded areas. On the other hand any precipitate surrender on this point on the part of His Majesty's Government alone—apart altogether from the ill effect such action might have on British interests in China—might merely stiffen France and Japan in their attitude of resistance to Chinese demands. This would produce a confused and dangerous situation and would merely make more difficult the realisation of China's desires.

2. Dr. Wang Chung-hui does not appear to realise the very great practical difficulties that would be involved were the provisions of the treaty now under negotiation to be applied forthwith to those treaty ports where Settlements and

¹ No. 395.

² No. 396.

Concessions now exist. His Majesty's Government have been influenced in the attitude which they have adopted on this question by the following considerations:—

(a) The Municipal Administration at the ports in question presuppose[s] a system of extraterritoriality, and in each case it would be necessary to devote prolonged study to the question of the adjustments that would have to be made in the machinery of these administrations before any actual transfer of jurisdiction could take place. Unless these adjustments are carefully worked out beforehand, any attempt to put the treaty into force in these areas might be followed by a period of confusion and disturbance at all the most important centres of foreign trade in China. This might inflict an even greater injury on China than on the vested interests of the foreign nationals concerned.

(b) It is essential for the success of this great experiment that it should be carried out by successive stages. The new machinery for exercising jurisdiction over foreigners should be set up, tried out, and got properly into working order before any attempt is made to impose upon it the burden of assuming jurisdiction over the important foreign communities at the principal treaty ports. A sudden transfer of jurisdiction on too great a scale might cause the machinery to break down altogether with consequences comparable to those that ensued in similar circumstances when jurisdiction was assumed without adequate experience or preparation over the Russian communities in Manchuria. It is impossible for His Majesty's Government to be party to any new arrangement which might have similar disastrous consequences.

(c) If His Majesty's Government were to yield to the urgings of Dr. Wang and sign the treaty without stipulating for the four reserved areas, there would immediately ensue at each of these places a financial panic and a political agitation. Japan and France, who are already inclined to think that His Majesty's Government have gone ahead too far and too fast, would be confirmed in this view. They would become firmer in their attitude of resistance to the Chinese demands and the prospect of negotiating similar treaties with those Powers would become more remote. The agitation among the British communities in China would receive a considerable measure of support in this country, and this might even make it impossible for His Majesty's Government to ratify the treaty. On the other hand once it has become known that the Chinese Government have agreed to reasonable safeguards and still more when it is realised by actual experience of the working of the treaty in practice that submission to Chinese jurisdiction involves no disastrous consequences, the extension of the provisions of the treaty to these ports could be effected smoothly and with goodwill and confidence on both sides.

3. The attitude of His Majesty's Government is therefore not only perfectly reasonable in itself but is also the one best calculated to promote the object which the Chinese have in view. I earnestly hope that the Chinese Government will not allow their judgment to be deflected by the immediate exigencies of the domestic crisis which they have to face on May 5. If their object is to obtain actual abolition of extraterritoriality at an early date—and not merely to secure an empty paper triumph for use at the Convention on

May 5—undoubtedly their wisest course is to accept our four reserved areas, sign the treaty with us, then negotiate similar treaties with America, France and Japan, and finally reach a settlement with all the Powers concerned on the question of the reserved areas.

4. The many difficulties encountered in connexion with the question of the reserved areas might possibly be surmounted if it could be arranged that an international commission should be set up after the entry of the treaty into force to study the question of the reserved areas, Settlements and Concessions. It might be agreed on both sides that negotiations on the basis of the recommendations of this commission, with a view to seeking a final solution of the problem, should be entered into within a fixed period of say 3 or 5 years. The commission would be Sino-British in the first instance but there would be obvious advantages in expanding it to include representatives of the United States of America, France and Japan and the ultimate solution could hardly be reached without their assent. Such a commission might also be entrusted with the task of settling the many difficult legal problems that will probably arise in connexion with jurisdiction in the reserved areas. If you concur you might discuss this idea with the Chinese Government with a view to ascertaining whether, in their opinion, it offers any prospect of a solution of the present deadlock.

The matter has now reached a stage when I have thought it well to re-submit it to the Cabinet, but in the meantime the above may be of use to you in dealing with Dr. Wang.

Repeated to Peking No. 129.

No. 404

Sir M. Lamson (Nanking) to Mr. A. Henderson
(Received April 27, 10.0 p.m.)

No. 129 Tour: Telegraphic [F 2300/34/10]

NANKING, April 27, 1931¹

My telegram 119 Tour series.²

United States Minister communicated to me on April 27 substance of telegram received from State Department in reply to his telegram reporting move of Vice-Minister for Foreign Affairs (see my telegram No. 119). State Department were not prepared to discuss (presumably any negotiations (*sic* ? modification)³ of our demands regarding) Shanghai; they considered exclusion of Tientsin should also be insisted on and that of Hankow and Canton strongly pressed for. Nor were they prepared to consider duration of less than ten years. They were ready to meet Chinese in regard to place of signature but Mr. C. C. Wu had full powers and any request that United

¹ The time of despatch is not recorded.

² No. 401.

³ The word 'modification' was suggested in the Foreign Office.

States Minister should be given full powers to sign at Nanking instead should come formally from Minister for Foreign Affairs. In any case even supposing agreement were reached in principle they would have to scrutinise the text which would take time. They deprecated apparent efforts of Minister for Foreign Affairs to rush matters. Tentative agreement had been reached by endeavours of Chinese experts on twelve articles which were the same in meaning but not identical in phraseology with Sino-British agreed texts.

Repeated to Peking.

No. 405

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 27, 5.55 p.m.)

No. 137 Tour: Telegraphic [F 2297/34/10]

NANKING, April 27, 1931, 9.0 p.m.

Your telegram No. 69.¹

Minister for Foreign Affairs refuses to budge from the following which he describes as his furthestest [*sic*] offer. Exclusion of Shanghai Settlement *only* for three years.

2. I did my best to shake him but failed completely. I warned him that His Majesty's Government were most unlikely to consider anything so clearly inadequate. I asked if there was anything we could offer to make it easier for him to meet us over reserved areas but he did not respond so I pursued the idea no further.

3. He spoke of unilateral action in the absence of settlement and I warned him that anything of this kind was unlikely to result to China's benefit.

4. He pressed, if possible, to have your reply to his offer by Wednesday² morning when he has to report to the Central Political Council.³

Repeated to Peking, Tokyo and Shanghai.

¹ No. 398.

² April 29.

³ For Sir M. Lampson's discussions with Dr. Wang on April 27, see also Nos. 408 and 460, paragraphs 32-36.

No. 406

Mr. Snow (Tokyo) to Mr. A. Henderson (Received April 28, 12.30 p.m.)
No. 86 Telegraphic [F 2331/34/10]

TOKYO, April 28, 1931, 6.10 p.m.

Extraterritoriality.

Minister for Foreign Affairs informed me today that Japanese Government intend to insist on rights of Japanese subjects to property trade and lease of land in South Manchuria and inner Mongolia as secured (in their view) by

treaty of 1915.¹ They would be prepared however to agree if need be to modification in the actual form of lease.²

Repeated to Nanking for Sir M. Lampson.

¹ The Sino-Japanese treaty and exchange of notes of May 25, 1915, respecting South Manchuria and Eastern Inner Mongolia, are printed in *British and Foreign State Papers*, vol. 110, pp. 796 f.

² With reference to the present telegram, Mr. Snow reported in Tokyo telegram No. 88 of May 7 that the Japanese Vice-Minister for Foreign Affairs had told the Danish Minister in Tokyo that 'Japanese Government were prepared to face eventual boycott if need be'.

No. 407

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 30, 9.0 a.m.)

No. 139 Tour: Telegraphic [F 2360/34/10]

NANKING, April 29, 1931¹

Extraterritoriality.

American negotiations seem now to have been definitely re-transferred to Washington.

2. On April 27 State Department communicated to the Chinese Minister a fresh draft treaty of twenty articles plus attached notes, etc. This draft treaty . . .² main our agreed texts here: it includes original American article on opening of the interior and reservation of four areas.³

Repeated to Peking.

¹ The time of despatch is not recorded.

² The text is here uncertain.

³ See *Foreign Relations of the United States 1931*, vol. iii, pp. 815-27.

No. 408

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received April 29, 1.30 p.m.)

No. 140 Tour: Telegraphic [F 2340/34/10]

NANKING, April 29, 1931, 6.30 p.m.

Extraterritoriality negotiations.

In the course of discussion with Minister for Foreign Affairs on April 27 question of signature came up. I said I did not see how we could in any case do more than initial an agreed text before May 5, time being so short, and I mentioned that we had still to bring the Dominions in which might cause some delay. Minister for Foreign Affairs was strongly against delay and urged that it would be much better actually to sign if and when agreement is reached.

2. There is obviously much to be said in favour of immediate signature (on the understanding that we arrange for an adequate delay between signature

and ratification) and it would be helpful to have your instructions what to work for. Every article has been fully reported by telegraph¹ so you may not require to have full texts by post before authorising signature. I presume full powers could be telegraphed as on previous occasions.

Repeated to Peking.

¹ These telegrams are not printed.

No. 409

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 82 Tour: Telegraphic [F 2383/34/10]

FOREIGN OFFICE, *April 29, 1931, 6.30 p.m.*

Your telegram No. 114 Tour.¹

French Ambassador called at the Foreign Office yesterday and urged on instructions from French Government that there should be a joint enquiry into the position of Shameen before extraterritoriality was surrendered by His Majesty's Government there. You should continue to hold out for Canton at least in addition to Shanghai and Tientsin.

Repeated to Peking.

¹ No. 400.

No. 410

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 80 Tour: Telegraphic [F 2297/34/10]

FOREIGN OFFICE, *April 29, 1931, 7.30 p.m.*

Your telegram No. 137.¹

1. For the reasons stated in my telegram No. 77,² Dr. Wang's offer is not acceptable and cannot even be made a basis of discussion. In particular His Majesty's Government cannot consent to a fixed time limit for the surrender of jurisdiction in the International Settlement at Shanghai as the effect of this would be to tie a rope round the necks of the Municipal Council and render impossible the negotiation on a satisfactory basis of the adjustments that would have to be made in the administration of the Settlement.

2. It does not seem either possible or desirable to carry the negotiations regarding reserved areas any further until Chinese negotiations with the other Powers have reached such a stage as to permit of their being brought into the discussion. This position could probably best be achieved by adopting the proposal of a joint commission suggested in my telegram No. 77.

¹ No. 405.

² No. 403.

3. My immediately succeeding telegram³ contains the gist of a confidential despatch No. 700⁴ just received from His Majesty's Ambassador at Washington. You should as discreetly as possible use this and other information of a like character already in your possession to prove to Dr. Wang that the United States would be as greatly alarmed as Japan and France at any undue haste in dealing with the question of the reserved areas.

4. Dr. Wang is doubtless influenced by a desire to meet the Convention of May 5 with a spectacular success to his credit, without which he may feel that his own position may be in danger. It is important therefore that he should clearly understand that His Majesty's Government cannot possibly give way and that any impression to the contrary that he may have derived from the Chinese Minister in London has no foundation in fact. We cannot give Dr. Wang the spectacular success he desires because it would ruin all that has been achieved by the negotiations of the last few months. If Dr. Wang persists in his present attitude there is grave danger that the consultations, which we contemplated holding with the other Powers with a view to bringing them more into line with our own policy towards China, may be turned into consultations with a view to discovering some means of offering joint resistance to the unreasonable demands put forward by China. I trust that Dr. Wang will put the interests of his country above all other considerations and seek a way out of the present difficulties on the lines suggested in my telegram No. 77.

Repeated to Peking.

³ Not printed.

⁴ No. 393.

No. 411

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 83 Tour: Telegraphic [F 2340/34/10]

FOREIGN OFFICE, *April 30, 1931, 4.30 p.m.*

Your telegram No. 140 Tour.¹

We shall do our best to avoid any unnecessary delay but we cannot be rushed in a matter of such importance and intricacy. You should not therefore encourage any idea of immediate signature. Government of Union of South Africa have asked to be informed of terms of definitive text before finally signifying approval and this alone seems to make immediate signature impossible.

Full Powers can be telegraphed when the time comes.

Repeated to Peking.

¹ No. 408.

Sir R. Lindsay (Washington) to Mr. A. Henderson

(Received May 1, 9.30 a.m.)

No. 247 Telegraphic [F 2377/34/10]

WASHINGTON, April 30, 1931, 6.20 p.m.

Secretary of State sent for me today about Chinese negotiations.

He told me that Chinese Minister for Foreign Affairs had notified His Majesty's Minister that Chinese could not [*sic*] consent to exclusion of Shanghai International Settlement only, and for period of only three years. A similar notification had been made here by Chinese Minister under instructions from his Government. Notification had been accompanied by argument that foreign rights in Shanghai lapsed automatically in three years. This argument the Secretary of State strongly disputed, maintaining that extraterritoriality depended not only on terms of treaties but possessed a quasi-permanent character. Chinese attitude based on such argumentation was in the nature of an invasion of foreign rights and from legal point of view called for resistance. From practical point of view he noted that co-operation of United States Government and His Majesty's Government had been close and cordial, and at this crisis of negotiations it was more than ever essential that it should continue so. He felt sure that French and Japanese could be counted on to stand firm and was anxious to know your views.

I said our two Governments were at one in desiring to secure widest safeguards for our nationals and the only difference possible was as to where the breaking point with Chinese Government would come. Was I right in assuming that in his view present Chinese offer would be rejected? To this his answer was in the affirmative. All American draft treaties had contemplated the exception of Shanghai for an undefined period but I gathered that he would agree to exception for a term of years, but longer than three. Limitation of area to International Concession only was also unacceptable. He indicated too that exception of Tientsin also was most desirable, though perhaps not essential.

I gathered impression that Mr. Stimson was afraid His Majesty's Government might be disposed to go further on the road of concession to Chinese demands than United States Government would be willing to go and that he was very anxious that the two Governments should keep in line.

No. 413

Mr. A. Henderson to Sir R. Lindsay (Washington)

No. 295 Telegraphic [F 2377/34/10]

FOREIGN OFFICE, *May 1, 1931, 5.20 p.m.*

Your telegram No. 247.¹

Please communicate to State Department summary of my telegrams Nos. 77 and 80 to Nanking.² Chinese offer referred to in latter telegram was the same as reported in your telegram. Argument that foreign rights in Shanghai lapse automatically in three years has not been presented to us, but we should certainly contest it if it were.

From telegram communicated by United States Embassy it appears that United States attitude as regards reserved areas coincides exactly with ours. Sir M. Lampson has authority to give way as regards Hankow in the last resort, but not as regards Shanghai (whole area) or Tientsin or at present Canton.

¹ No. 412.

² Nos. 403 and 410. Mr. Campbell carried out these instructions in a letter of May 3 to Mr. Stimson.

No. 414

Sir M. Lampson (Nanking) to Mr. A. Henderson

(Received May 1, 5.25 p.m.)

No. 152 Tour: Telegraphic [F 2420/34/10]

NANKING, *May 1, 1931, 9.0 p.m.*

Extraterritoriality.

On May 1 I read to the Minister for Foreign Affairs your telegrams Nos. 77 and 80¹ with minor verbal amendments and deletions, cutting out some of the stronger phrases referring to Minister for Foreign Affairs himself and references to other Powers by name; and in paragraph 4 of your telegram No. 77 substituting Sino-British for International Commission 'to study question of reserved areas', (bearing special problem of Shanghai in mind) not mentioning 'settlements' in this context nor specifying term of years within which negotiations should take place on Commission's recommendations. I emphasised that above were *ipsissima verba* of His Majesty's Government and urged him most strongly and insistently to give fullest consideration to the possible way out of impasse suggested in paragraph 4 of your telegram No. 77.

2. Minister for Foreign Affairs though he professed to expect this reply was evidently moved and greatly disappointed by firm nature of these messages. His first remark was that he hoped His Majesty's Government

¹ Nos. 403 and 410.

would understand that there was nothing personal in the matter, that policy being pursued was that of the Government and people of China and that reference to his desire to seek spectacular success for himself was entirely without foundation. He then stated and repeated several times that it was absolutely impossible to meet us over the four areas or 50 li radius round Shanghai. I asked him whether he wished me to telegraph that to you as his reply and urged him to take time to think it over further and if necessary to consult his colleagues. He replied that matter had been fully thought out and that there was nothing more to be said. I asked if I was to telegraph at once and whether he desired me to transmit to you any further message. He replied that he would only like to add that it would be far better for His Majesty's Government to go ahead alone and that he was extremely sorry that all the work done would now be wasted.

3. I refused to admit that work accomplished had been in vain and maintained that so far as I was concerned the door was still open for discussion. And I again urged him to consider your suggestion without however eliciting any response except as regards Shanghai Settlement where the idea of proposed joint commission might be considered. This I replied was not adequate as it ignored the three other reserved areas.

4. I have informed United States Minister of above.

5. I received the impression that what particularly disappointed and discouraged the Minister for Foreign Affairs was the suggestion that we should wait for the other Powers to come into line and then negotiate together about the reserved areas. Chinese feel—I think with reason—that whereas we and the Americans are dealing with question of reserved areas on its merits other Powers have mainly political objects in view and cling to their Concessions as pawns in the game to secure other objectives. I must myself confess to feeling gravest doubt as to wisdom of any course of action which links us too closely with such policies which are not only contrary to our general ideas and practice but may land us in great future perplexities.

6. We are now completely deadlocked and Chinese may proceed with unilateral action of some kind. I shall wait a few days to see whether Minister for Foreign Affairs will make any further move but I doubt it. Meanwhile in view of your recent telegrams I have refrained from receding in any way from our full demands for the four reserved areas (which I never really expected from the outset Chinese would be likely to grant). I request instructions as to whether or not I am authorised if and when time seems opportune, to bargain on lines of my telegram No. 113.²

Repeated to Peking and Shanghai.

² No. 397.

No. 415

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 9, 9.30 a.m.)

No. 162 Tour: Telegraphic [F 2587/34/10]

NANKING, May 4, 1931¹

Your telegram No. 80² paragraph 4 penultimate sentence.

Minister for Foreign Affairs told me today that a mandate would be issued today or tomorrow applying unilaterally jurisdictional arrangements so far come to between us. But sufficient time would be allowed therein for arrangements with foreign Powers in the interim before the actual implementation.

2. I reminded him of your words and danger of provoking resistance [*sic*] of foreign Governments and mentioned . . .³ knowledge that consultations on this point had already taken place between Washington and London. He replied that he was well aware of that: he also knew that American initiative in this emanated from Wall Street and Chinese Government knew how to deal with that.

3. I said I strongly deprecated getting drawn on to this delicate ground. Rather let us concentrate here on finding some way out of the impasse.

Repeated to Peking and Shanghai.

¹ The time of despatch is not recorded.

² No. 410.

³ The text is here uncertain.

No. 416

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received May 7, 9.0 a.m.)

No. 161 Tour: Telegraphic [F 2523/34/10]

NANKING, May 5, 1931¹

My telegram No. 152² paragraph 3.

Minister of Foreign Affairs today assured me that he too regarded the door as still wide open. But he simply could not meet us on the four reserved areas.

2. Finally I drew from him what amounted to a practical offer of area of Greater Shanghai (instead of 50 li zone of our original draft) *provided* that I could hold out hopes of some agreement regarding extra-Settlement roads. Otherwise he would be unable to convince public opinion that he had not sanctioned practical extension of Settlement limits. Whilst refusing to admit that exclusion of Greater Shanghai area alone would meet us I hinted clearly that an agreement on extra-Settlement roads should be feasible provided we secured reservation of extraterritoriality throughout the whole area of Greater Shanghai. He spoke once more of your idea of a joint commission to deal with Shanghai

¹ The time of despatch is not recorded. The telegram was drafted on May 4.

² No. 414.

reserved area alone but it seemed wiser for me not to pursue this for the moment.

3. Regarding remaining three areas I explained that under my instructions I was now precluded from contemplating any compromise though I admitted that prior to their receipt I had had such a possibility in mind. But the effect of his quasi-ultimatum of April 27 (see my telegram No. 137 Tour Series³) had been precisely what was to be expected. No British Government would allow themselves to be badgered like this and he had only himself to blame for the present impasse. Once more I emphasised impossibility in practice of applying Chinese jurisdiction in Tientsin or Canton (see your telegram No. 77⁴). He admitted this.

4. We have now arranged to continue discussion of technical details until everything save the four reserved areas is agreed ground. Both sides can then take stock of position.

5. I believe if permitted to work for it I should now be able to work towards some agreement on lines of my telegram No. 113.⁵ If we have Hong Kong in the South, Shanghai in the centre, and Tientsin in the North it seems to me that our trade interests should be adequately secured for some years to come during the inevitable process of readjustment which we cannot and do not wish to avoid. We may be able to get terms now, in view of political developments,⁶ that may not be achievable later if either (a) the Government weathers the storm or (b) it falls and some more leftward combination takes its place.

Repeated Peking and Shanghai.

³ No. 405.

⁴ No. 403.

⁵ No. 397.

⁶ See No. 460, paragraph 41.

No. 417

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 8, 10.30 p.m.)

No. 170 Tour: Telegraphic [F 2589/34/10]

NANKING, May 5, 1931¹

My telegram No. 162.²

Mandate issued on May 4 promulgated a set of twelve regulations governing exercise of jurisdiction over foreigners up till now possessed of extra-territorial rights but provides that they shall not come into force until January 1, 1932.

2. Regulations, substance of which has doubtless been telegraphed by press, seem to be based mainly on ground covered between us and Chinese.

3. Unless communicated by Minister for Foreign Affairs I propose to ignore their issue officially. Mandate is accompanied by explanatory statement by Minister for Foreign Affairs which after recapitulating introduction runs as in my immediately following telegram.³

¹ The time of despatch is not recorded.

² No. 415.

³ Not printed. A full summary of this statement is printed in No. 460, paragraph 43.

No. 418

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 96 Tour: Telegraphic [F 2531/34/10]

FOREIGN OFFICE, *May 5, 1931, 9.50 p.m.*

My immediately preceding telegram.¹

Please telegraph your observations on present position.

¹ Not printed. This telegram gave the text of Mr. Henderson's statement to the House of Commons on May 6: see Parl. Deb., 5th ser., H. of C., vol. 252, cols. 363-4.

No. 419

Sir M. Lampson (Nanking) to Mr. A. Henderson

(Received May 6, 9.30 a.m.)

No. 172 Tour: Telegraphic [F 2524/34/10]

NANKING, *May 6, 1931, 7.40 p.m.*

Your telegram No. 96 tour series.¹

My telegrams will have shown developments to date.

2. My belief is that given a certain latitude I may be able to get greater Shanghai and Tientsin as excluded areas (see my telegram No. 113²). To get this usual bargaining process will be . . . ed³ e.g. first drop Hankow then (if really necessary) at the psychological moment offer to trade in Shameen not only as to jurisdiction but also rendition of Concession (to which you will remember we stand formally committed since January 1927): the latter not immediately—which would be practically impossible—but subject to subsequent arrangement to our joint satisfaction. This is what I have said to the French Minister here who I find fully shares my views though he should on no account be quoted against his Government.

3. I judge internal situation here to be better. Ho Ying-chin⁴ attended opening of People's Conference in Nanking yesterday thus disposing of rumour of his defection; and Chang Hsueh-liang on whom position mainly turns backs Chiang Kai-shih [Kai-shek]. Thus in my view we should continue negotiations with Nanking in normal manner. As in September 1930, I am all against holding of these up owing to possible political developments which as a rule do not occur, but which even if they did should not in my opinion deflect us from our course seeing that there will be specified period between signature and ratification.

4. As to Government's mandate of May 4, this strikes me as rather clever move. It has enabled the Government to meet the conference with apparently striking success whilst containing definite provisions for adequate time to put through amicable arrangements with foreign Powers. And the 12 regulations

¹ No. 418.

² No. 397.

³ The text is here uncertain.

⁴ Minister of Military Affairs.

are so drafted as to seem *ultimately* to the Chinese public as parent of our treaty if signed. . . .⁵ this means face for the Chinese and satisfaction to us.

5. I submit our policy should be (1) to carry on negotiations on detailed safeguards until the whole body of treaty save one point of reserved areas is agreed ground. (2) That meanwhile I should continue to entice Minister for Foreign Affairs nearer to meeting us on reserved areas.

(3) That finally when everything else has been disposed of and if in the interval I have failed to get agreed basis of compromise on areas I should present final offer regarding them and that if he then refuses to meet us we should agree to separate for the summer months and to resume our negotiations in the autumn when both sides will be able to start it with fresh outlook and perhaps greater prospects of success.

Repeated to Peking and Shanghai.

⁵ The text is here uncertain.

No. 420

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received May 7, 9.0 a.m.)
No. 173 Tour: Telegraphic [F 2526/34/10]

NANKING, May 6, 1931, 8.30 p.m.

. . .¹ Japanese Chargé d'Affaires who has just returned from Tokyo saw Minister for Foreign Affairs on May 6. I gather that no progress was made and that he will now await initiative from the Chinese side.

2. Two fundamental points to Japan are exclusion of Manchurian zone in addition to our four areas and opening of interior especially Manchuria and Shantung. In Manchuria Japan already has certain such rights given her in 1915 and her nationals own much land etc.; including Koreans she has about one million subjects in Manchuria.

3. Japan will probably have to accept groundwork of our present detailed arrangements with China but may in part seek to strengthen these.

4. Minister for Foreign Affairs took the stand that interior could not be opened to any particular Power until all special privileges enjoyed by that Power had ceased: e.g. tariff autonomy, extraterritoriality, Concessions and leased territories (including Dairen and Kwantung peninsula), withdrawal of all military and naval forces.

5. I informed Japanese Chargé d'Affaires of our position to date. He enquired what we were doing about opening of interior. I told him of my compromise for annexed formula² but so far . . .³ failed to get it; I added that for us this item was comparatively unimportant which he admitted.

Repeated to Peking and Tokyo.

¹ The text is here uncertain.

² See No. 460, paragraph 33 for the revised British proposal regarding rights of residence in the interior for British subjects.

³ The text is here uncertain.

No. 421

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received May 7, 9.0 a.m.)
No. 174 Tour: Telegraphic [F 2543/34/10]

NANKING, May 7, 1931, 12.5 a.m.

United States Minister told me tonight¹ that Minister for Foreign Affairs had sent for him this morning and had stated that he had learnt on unimpeachable authority that United States Government were holding back British Government on [*sic* ? in] their extraterritoriality negotiations. If this were true it would be a matter affecting friendly relations of their countries. He then turned to question of negotiations between C. C. Wu and State Department and said there were three points outstanding namely the four areas, the fifty li zone and duration. As regards the first two, China could not possibly give way except that he was prepared to give way as regards greater Shanghai for period of three years only. As to duration of treaty he alleged that State Department had informed C. C. Wu that they would consider anything between a minimum of five to a maximum of ten years according to what was arranged between me and United States Minister.

As regards opening passage of Minister for Foreign Affairs' statement which United States Minister has reported to Washington in order to forestall any misunderstanding I reminded Minister of gist of your telegram No. 80,² paragraph 3, which I had read to him on evening of its receipt and added that in reading my instructions to Minister for Foreign Affairs on May 1, I had paraphrased this in a very general way to the effect that it was not only the other Powers but America also which thought I had been going too fast and too far. I thought it wiser not to describe to him what I had said to Minister for Foreign Affairs regarding consultations between Washington and London as recorded in my telegram No. 162.³

Repeated to Peking.

¹ This telegram was drafted on May 6.

² No. 410.

³ No. 415.

No. 422

Mr. A. Henderson to Sir R. Lindsay (Washington)
No. 307 Telegraphic [F 2512/34/10]

FOREIGN OFFICE, May 7, 1931, 7.0 p.m.

Nanking telegram No. 166 Tour.¹

I do not propose to trouble you with the highly technical details of the personal status article in the proposed extraterritoriality treaty which is the

¹ Not printed. This telegram of May 4 reported that Mr. Teichman was having difficulty in obtaining Chinese acceptance of the Foreign Office's requirements in the matter of jurisdiction in cases concerning the personal status of British subjects 'due to fact that United States Government have offered if the new Chinese civil code is found satisfactory in this respect to concede to Chinese courts complete jurisdiction in such matters. . . . This incident is a good example of the dangers of separate negotiations here and in Washington.'

subject of the telegram under reference. You should, however, explain to the United States Government that we attach great importance to securing the assent of the Chinese Government to our proposals on this point, but that in consequence of concessions made in the course of negotiations in Washington, it now seems doubtful whether we shall succeed. It is unlikely that the United States Government would have made these concessions without prior consultation with us had they realised how seriously our negotiations would be prejudiced. In our view, unless there is close collaboration in working out the details of the proposed treaty, the difficulties of negotiating a satisfactory treaty will be needlessly enhanced to the detriment of all foreign nationals alike in China. Such collaboration cannot be maintained unless all negotiations are conducted at the same place. You should represent to the United States Government that this setback in regard to personal status is an excellent illustration of the damage that will be inflicted on foreign interests in China if the United States negotiations continue to be conducted in Washington.

Repeated to Peking No. 146.

No. 423

Mr. Campbell (Washington) to Mr. A. Henderson
(Received May 11, 9.0 a.m.)

No. 264 Telegraphic [F 2594/34/10]

WASHINGTON, May 10, 1931, 4.26 p.m.

Your telegram No. 307.¹

I spoke with Mr. Castle this morning (May 9) as instructed. He said he thought it very unlikely that concessions had been made. United States Government also attach great importance to personal status question. Mr. Castle fully agreed as to necessity of close co-operation in working out details and as to importance for this purpose of negotiations being conducted at the same place. Anything that had ever been said to Dr. Wu here had of course been purely tentative and provisional, and Dr. Wu had been so informed. But as he (Mr. Castle) had repeatedly represented to Secretary of State the Chinese Government were continually trying to play His Majesty's Government and United States Government off against each other. Present instance was probably an example of this and it was quite possible that Dr. Wu had wilfully given Chinese Government false impression that the United States Government had made concessions. If this should prove to be the case it would give Mr. Castle the opportunity for refusing to discuss with Dr. Wu. He had not seen papers on China for a day or two but he would enquire on the matter from Dr. Hornbeck and let me know the result.

¹ No. 422.

No. 424

Mr. A. Henderson to Sir R. Lindsay (Washington)

No. 313 Telegraphic [F 2594/34/10]

FOREIGN OFFICE, May 11, 1931, 10.45 p.m.

Your telegram No. 264.¹

Following is extract from Sir M. Lampson's telegram No. 179² of May 11:

'United States Minister has informed me that as result of development reported in my telegram No. 166,³ State Department withdrew their draft and submitted in its place a draft on the lines of that contained in my telegram No. 136.⁴ This has not made it easier to secure the desired amendments to that text. I trust therefore that the present draft may be approved as soon as possible. I am keeping in close touch with the United States Minister on this question as the State Department have now suggested that we should reach an agreed text with the Chinese here.'

¹ No. 423.

² Not printed in full.

³ Not printed. See No. 422, note 1.

⁴ Not printed. The text transmitted in this telegram corresponded closely to that of Article 14 as printed in enclosure 3 in No. 458. See also No. 460, paragraph 46.

No. 425

Sir R. Lindsay (Washington) to Mr. A. Henderson

(Received May 12, 9.15 p.m.)

No. 270 Telegraphic [F 2640/34/10]

WASHINGTON, May 12, 1931, 11.23 a.m.

Your telegram No. 295.¹

I acted on your instructions and I have now received from Under Secretary of State letter² taking note of statements made in three last sentences of your telegram under reference, expressing gratification that attitude of His Majesty's Government coincides on these points with that of United States Government, noting with interest suggestion for an international commission to study the problem of excluded areas after coming into force of treaty, expressing opinion that this might lead to final solution and finally expressing hope that if Sir M. Lampson decides to give way about Hankow his intention to do so may be made known in advance or immediately to United States Minister in China and/or to State Department.³

¹ No. 413.

² This letter is printed in *Foreign Relations of the United States 1931*, vol. iii, p. 849.

³ With reference to the present telegram, Sir R. Lindsay was instructed on May 14, in Foreign Office telegram No. 320 to Washington, to communicate to the State Department the gist of Nos. 416, 419, and 426.

No. 426

Mr. A. Henderson to Sir M. Lampson (Shanghai)

No. 102 Tour: Telegraphic [F 2524/34/10]

FOREIGN OFFICE, *May 13, 1931, 6.0 p.m.*

Your telegrams Nos. 161 and 172¹.

I am relieved at position disclosed and your appreciation. I approve continuance of negotiations in the manner you suggest and will inform French Government that we are prepared if necessary, in order to secure a full settlement to surrender jurisdiction in Canton and Concession of Shameen at any convenient moment in the negotiations and that when negotiating detailed arrangements for rendition of the Concession regard will be paid so far as circumstances permit to French interests and wishes.

The reported breakdown of the negotiations and the issue of the Chinese mandate have attracted wide attention here and stress has been laid in the press on the fact that His Majesty's Government have refused to surrender jurisdiction in four areas. I am prepared to defend a treaty reserving only Tientsin and a wide Shanghai area, but it is not generally realised in this country that this is the attitude of His Majesty's Government. We shall therefore as you will appreciate be placed in a difficult position if it appears later that we have offered to surrender Hankow and Canton without obtaining a definite treaty containing adequate safeguards. You should be careful therefore not to make any offer of these two places except as a final step in securing a treaty which will be definitely accepted by Chinese Government.

Repeated to Peking.

¹ Nos. 416 and 419.

No. 427

Mr. A. Henderson to Sir M. Lampson (Shanghai)

No. 103 Tour: Telegraphic [F 2524/34/10]

FOREIGN OFFICE, *May 13, 1931, 6.0 p.m.*

My immediately preceding telegram.¹

Following from Sir V. Wellesley:—

Your instructions were approved on the strict condition that there must be no concession as regards Hankow and Canton unless a settlement is actually reached.

¹ No. 426.

No. 428

Mr. A. Henderson to M. de Fleuriau

[F 2524/34/10]

FOREIGN OFFICE, May 13, 1931

Your Excellency,

With reference to the conversation which Your Excellency had with Sir Victor Wellesley on the 28th April on the subject of the extraterritorial rights of foreigners in the foreign Concessions at Canton,¹ I have the honour to inform you that His Majesty's Minister in China has hitherto contended, in the negotiations which he is conducting with the Chinese Ministry for Foreign Affairs, that Canton should be excluded from the scope of any treaty which may be concluded providing for the surrender of British extraterritorial jurisdiction in China. His Majesty's Government in the United Kingdom are, however, prepared, if necessary, in order to secure a full settlement, to surrender extraterritorial jurisdiction in Canton and to restore the British Concession of Shameen at any convenient moment in the negotiations. His Majesty's Government have, in fact, as the French Government are aware, been committed to this latter step eventually since January 1927. When the detailed arrangements for the rendition of the Concession are being negotiated, regard will be paid so far as circumstances permit to the interests and wishes of the French Government.

2. Confidential instructions in this sense have been sent to His Majesty's Minister in China,² who will no doubt consult his French colleague in the matter.³

I have, &c.,

ARTHUR HENDERSON

¹ See No. 409.

² See No. 426.

³ Sir M. Lampson was instructed to consult his French colleague in Foreign Office telegram No. 115 Tour of May 16.

No. 429

Sir M. Lampson (Shanghai) to Mr. A. Henderson

(Received May 15, 5.50 p.m.)

No. 191 Tour: Telegraphic [F 2686/34/10]

SHANGHAI, May 15, 1931, 11.3 p.m.

Your telegram No. 103.¹

Following for Sir V. Wellesley:—

I will do my best but position now is that I cannot show my hand unless Chinese actually suggest (and not I) some modification of our insistence [*sic*] on all four areas as price of a definite settlement. This I doubt their doing.

¹ No. 427.

And if they do not I shall in all probability now say nothing and leave the matter to stew until the autumn which very possibly is the best thing that could happen.

I think it well to tell you this in advance because instructions are rather peculiar seen from this end, perhaps more so than by those at yours who do not have to carry them out. Thus if we stick over the four reserved areas I shall not modify my attitude and shall forthwith pull out as suggested in my earlier telegram.² I should of course be careful to leave it that discussions were only suspended and in no (? circumstances)³ (? strained)³.

² No. 419.

³ The text is here uncertain.

No. 430

Sir M. Lampson (Shanghai) to Mr. A. Henderson
(Received May 17, 10.30 a.m.)

No. 193 Tour: Telegraphic [F 2688/34/10]

SHANGHAI, May 17, 1931, 1.5 p.m.

Your telegram No. 101.¹

It is futile to suggest to Chinese any wording which could be interpreted as providing for indefinite duration failing revision by agreement and thus reproducing present situation in connexion with revision of clauses of 'unequal treaties'.

2. I presume if we had no duration clause at all (original Chinese draft had none) Chinese Government would be in a position to denounce treaty whenever they considered circumstances justified such a course.

3. In negotiating present draft treaty we have on numerous occasions in order to get what we wanted had to emphasize that we were negotiating a treaty containing special safeguards for a transitional period; and that it would be followed in due course by a commercial treaty on a more reciprocal basis.

4. Chinese Government would never agree even to commercial treaty

¹ Not printed. This telegram of May 13 discussed the question of the duration of the proposed extraterritoriality treaty. His Majesty's Government would have preferred that the treaty should continue in force after ten years in the absence of agreement on revision, but in view of Chinese objections to this they suggested that some provisions should be terminable and others, including those relating to the reserved areas, permanent, failing agreement on revision. Since the proposed treaty abrogated certain existing treaty rights the Foreign Office considered it important that some safeguards for British subjects should remain in force when the proposed treaty lapsed. In consideration of British public opinion and Chinese sensibilities, the Foreign Office suggested in conclusion: 'Failing an unambiguous article in the treaty which the Chinese Government could not represent to their public as entailing complete eventual termination of the treaty, it would perhaps be possible though less satisfactory to accept an exchange of notes which we could use in public now and diplomatically in the future but which would not attract attention of Chinese public now'.

being of indefinite duration; and even less to present treaty being non-terminable.

5. I consider therefore that we should hold out for a ten year duration of the whole treaty and if necessary bargain over shorter period for certain special arrangements e.g. special chambers, legal counsellors and limitation of police court jurisdiction. As regards reserved areas we have your formula for negotiations on basis of commission's recommendations within five years. American draft as presented to Chinese Minister on April 27 provides for duration for treaty as a whole of ten years.

6. Whether we wish it or not we cannot . . .² commercial treaty negotiations later on when we shall have to tackle the question of reciprocity. I presume we could if necessary negotiate such a treaty in the first instance for United Kingdom and Crown Colonies alone and provide for separate accession of the Dominions if necessary each on their own terms. Compare with our commercial treaty draft of 1929 which was largely reciprocal. There is no chance of repeating our present manoeuvre of confining reciprocity to United Kingdom and securing benefits of treaty for British subjects from all parts of the Empire.

7. I shall now put up to Chinese a draft clause providing for ten years duration at expiration of which either party may give notice of revision by mutual agreement failing which treaty will expire: and say should neither party demand revision, treaty shall continue in force for additional five years. This has the advantage of tallying with the American draft presented to Chinese Minister at Washington on April 27.

Repeated to Peking.

² The text is here uncertain.

No. 431

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 19, 9.30 a.m.)

No. 207 Tour: Telegraphic [F 2716/34/10]

NANKING, May 19, 1931, 11.5 a.m.

My telegrams Nos. 203,¹ and 205¹ tour.

There are now only two major points outstanding (a) reserved areas and (b) duration.

Under your instructions I cannot on (a) make any overture in direction of reducing number of areas for to do so would be to give principle away in advance without any *certainty* (on which my instructions are explicit) of securing what we want. I cannot even lobby safely nor is that easy with elimination of Wang Chung-hui² to which [*sic* ? whom] I should otherwise have turned. It follows that if Minister for Foreign Affairs does not yield

¹ Not printed.

² Dr. Wang had left Nanking to attend the International Court at The Hague.

(which he certainly will not) further discussion is useless—I had better close down the conversations for the time being and leave Nanking and unless instructed to the contrary by end of the week I shall do so.

3. There remains (b). Do you agree to my holding firmly to ten years for duration of treaty as a whole and a minimum of five years for such provisions as legal counsellors and special chambers? We might get this with luck.

Repeated to Peking.

No. 432

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 117 Tour: Telegraphic [F 2686/34/10]

FOREIGN OFFICE, *May 19, 1931, 6.0 p.m.*

Following from Sir V. Wellesley.

Your telegram No. 191 Tour¹:

1. Secretary of State, who is away at Geneva, has not yet considered question of adjourning negotiations. Our understanding of your instructions, however, is that they were intended to give you the degree of latitude for which you had asked in the hope that it might be possible to reach a speedy settlement. At the advanced stage which the draft treaty has now reached, there would seem to be serious dangers involved in adjourning negotiations till the autumn. In the interval the terms so far agreed upon would almost certainly be made the target of criticisms not only in China but in this country and possibly also in the Dominions, with the result that much of the work might have to be done over again and possibly the whole Treaty might be jeopardised.

2. An adjournment till the autumn would bring us dangerously close to January 1, 1932, the date named in the latest mandate. It would still be this country that would be in the forefront of the fight and China's pressure to force the Powers to capitulate would still be directed against us. On the other hand if we can carry our negotiations to a successful conclusion now we might stand aside and leave China to tackle France and Japan. There would be time to reach agreement with those Powers before the end of the year. But if no such agreement had been reached we, at any rate, would be in a favourable position to face any crisis that might arise on January 1 next. Moreover, unless our extraterritoriality negotiations are concluded now it would be difficult to begin negotiations for a commercial treaty. In view of development referred to in paragraph 3 of your telegram No. 188, Tour,² it would seem desirable to begin these negotiations as soon as possible.

¹ No. 429.

² Not printed. Paragraph 3 of this telegram reported the receipt of a note dated April 22 from Dr. Wang 'calling attention to expiration of decennial period of Treaty of Tientsin and inviting His Majesty's Government to negotiate a new commercial treaty'. See Article XXVII of the Treaty of Tientsin of 1858 printed in *British and Foreign State Papers*, vol. 48, pp. 52-53.

3. A further argument for not adjourning our negotiations is that if we did so the State Department would probably take up the running and it might be difficult to prevent them committing blunders that might prejudice our own position.

4. For these reasons we believe that it would be better if possible to reach a definite agreement now on the basis of the exclusion of Greater Shanghai and Tientsin. Do you concur? If you consider that your present instructions make it difficult for you to proceed on these lines perhaps you could explain wherein the difficulty lies and how it might be removed. Last sentence of paragraph 3 of your telegram No. 161³ makes us hope that you might manoeuvre Minister for Foreign Affairs into offering Tientsin and Greater Shanghai.

Repeated to Peking.

³ No. 416.

No. 433

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 21, 9.0 a.m.)

No. 211 Tour: Telegraphic [F 2779/34/10]

NANKING, May 19, 1931¹

As an aside during yesterday's conversation Minister for Foreign Affairs for the first time alluded to continued presence of foreign troops in North China. When extraterritoriality was disposed of he proposed to take up the question of cancelling final protocol of 1901² which was now an anachronism: all this he said in a quite casual way.

2. I told him my idea was to take commercial treaty next presenting a revised draft to meet new situation since our last one was put in and to let other things follow in due course each (such as final protocol) being dealt with . . .³ on its merits when its turn came. He did not dissent.

3. As to commercial treaty he observed that there should be little difficulty. Only real point was cabotage and on that fortunately the two British companies were he believed already in process of evolving workable arrangement of a co-operative character with Chinese shipping interests. So that with luck the two Governments would only have to adapt into treaty form what had in practice already been worked out.

Repeated to Peking.

¹ The time of despatch is not recorded.

² See No. 1, note 24.

³ The text is here uncertain.

No. 434

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 23, 9.0 a.m.)

No. 213 Tour: Telegraphic [F 2821/34/10]

NANKING, May 21, 1931¹

Your telegram No. 115.²

I have today explained the position to my French colleague. I had already informed United States Minister most confidentially.

Repeated to Peking.

¹ The time of despatch is not recorded.

² Not printed. See No. 428, note 3.

No. 435

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 21, 9.0 p.m.)

No. 214 Tour: Telegraphic [F 2816/34/10]

NANKING, May 21, 1931, 10.30 p.m.

Your telegram [No.] 117,¹ paragraph 4.

If as I now understand I can work to minimum acceptance of Shanghai and Tientsin down and shall not afterwards, in the event of failure to secure settlement, be . . .² by hinting at such a possibility as having *thereby* sold the pass nothing further is required at present.

2. Telegram under reference arrived most opportunely and during three hours river excursion with Minister for Foreign Affairs today I got him on to discuss possible lines of compromise. He maintained he could not agree to so many as four areas as Chinese public would regard that as perpetuation of Concession areas . . .² I pointed out was absurd in our case in view of our 1927 offer and more especially as regards Hankow where we have no Concession: finally I gave broad . . .² hint that . . .² taking considerable risk of being disavowed I should be prepared if it would help him over difficulty he had quoted to include an undertaking that negotiations for rendition of Shameen would be entered into immediately after signature of Treaty though France would of course have in loyalty to be consulted. This seemed at first to attract him but later he receded. I therefore added that as additional inducement I should be ready to give him some form of assurance of an eventual settlement of 'outside roads' question at Shanghai and also regarding extension to four reserved areas of non-discriminatory (in practice) national Chinese taxation. In return I must have (1) Ten years for Treaty (2) Five years for special provisions regarding legal counsellors and special chambers (3) Four areas (4) Some provision for mutual consultation (not necessarily joint commission to which he evidently objects most strongly)

¹ No. 432.

² The text is here uncertain.

within five years, leading up to negotiations regarding ultimate solution of reserved area question.

3. I stated that I had booked accommodation back to Peking on the night of May 30 so as to be there for King's birthday and expressed earnest hope that as we were both so evidently desirous to settle we might be able to initial a complete text before then. Finally I begged him to consider these overtures in the same spirit in which I had made them and see whether therein might not be the seed of a solution. He was on the whole receptive but guarded.

4. It is impossible to say whether this afternoon's work will lead anywhere but I am certainly more hopeful. Result of my once more working to a date may help us through. It has before.

Repeated to Peking.

No. 436

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 23, 9.0 a.m.)

No. 216 Tour: Telegraphic [F 2822/34/10]

NANKING, May 22, 1931¹

My telegram No. 211.²

Minister for Foreign Affairs reverted most informally today to possibility of withdrawal . . .³ troops from Peking to Shanhaikuan area: and enquired your views.

2. I repeated that I was sure you at present had none and that the matter was essentially one of those that would in time solve itself. Commercial treaty was the next subject on our list after extraterritoriality. He seemed generally in most mellow mood.

Repeated to Peking.

¹ The time of despatch is not recorded. The telegram was drafted on May 21. ² No. 433.

³ The text is here uncertain. Another text here read: 'withdrawal of protocol troops'.

No. 437

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 23, 10.0 p.m.)

No. 221 Tour: Telegraphic [F 2825/34/10]

NANKING, May 23, 1931¹

My immediately preceding telegram.²

Article 21.

'The present treaty shall as from the date of its coming into force, except as otherwise provided in Article[s] 2, 3 and (blank) be mutually and re-

¹ The time of despatch is not recorded.

² Not printed. This telegram of May 23 reported that the text of article 21 contained in

ciprocally binding for a period of (blank) years, at the end of which period the treaty may, in response to the demand of either party made six months prior to the expiration of the period, be revised by negotiations between the parties thereto. If no agreement is reached in regard to such revision within this period, the treaty shall become null and void. Should neither party demand such revision, the treaty shall continue in force, provided, however, that any time after the expiration of the said period either party may notify the other of its desire to revise or terminate the treaty, which shall then, if no agreement is reached in regard to revision or if notice of termination is given as the case may be, become null and void six months after the date of such notification. It is understood that the provisions in existing treaties abrogated under Article 19 of the present treaty will not be revised [? revived] upon its termination.'

Additional paragraph to Article 2.

'The arrangement in connexion with the special chambers to be established by the Chinese Government shall remain in force for such period as the Chinese Government may deem appropriate, not being less than (blank) years.'

Additional paragraph to Article 3.

'The arrangements in connexion with the legal counsellors to be appointed by the Chinese Government shall remain in force for such period as the Chinese Government may deem appropriate, not being less than (blank) years.'

Repeated to Peking.

the present telegram was acceptable to Dr. Wang, and that Sir M. Lampson had informed him that he could not accept any further exceptions to the general duration period other than articles 2, 3 and possibly 16 (for these articles see No. 458, enclosure 3). The penultimate sentence of the draft of article 21 replaced the original provision for continuance in force for further quinquennial periods failing a demand for revision, as the Chinese Government refused to bind themselves to grant any special privileges indefinitely. Sir M. Lampson concluded: 'Important point is to secure explicit provision for duration for definite period... and the next step is to concentrate on making this period one of ten years.' He added that he proposed to accept this text unless instructed to the contrary, and also that he had communicated a copy to Mr. Johnson.

No. 438

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 24, 12.50 p.m.)

No. 225 Tour: Telegraphic [F 2826/34/10]

NANKING, May 24, 1931, 4.0 p.m.

My telegram No. 214 tour.¹

Discussion was resumed at private interview on May 24. I began by saying that during interval I had crystallised result of our discussion of May 21 into a rough formula to facilitate matters and in order to make acceptance

¹ No. 435.

easier had gone so far as to increase my offer as he could see. But before putting in my draft I must make my position absolutely clear.

(1) My present offer was strictly conditional on all outstanding points in draft treaty being disposed of to our satisfaction including duration periods of ten years for whole treaty and five years for article 2 and article 3 only plus an acceptable ratification clause.

(2) The terms of the offer I was about to make were formulated on my personal responsibility and at the risk of incurring your displeasure—but in my anxiety to secure a settlement if reasonably possible I was ready to take that risk and if accepted by him to do my best to secure its acceptance by His Majesty's Government.

(3) The offer to rendite Shameen and to drop reserved area at Canton must be on clear understanding that same provisions as are made for Shanghai should apply to Tientsin—and that this was fundamental.

2. I then handed him text as given in my immediately following telegram.²

3. Taking attached note first I got him after some considerable fencing practically to agree to last paragraph. I made it clear that I was making a big concession in substituting this paragraph for paragraph 1 of my formula of May 18 (see my telegram No. 206³).⁴ First paragraph of note he took without demur or comment.

4. Turning to draft article final result was this:—

Paragraph 1. He offered reservation of Shanghai area for five years (? and of)⁴ Tientsin area for three. Hankow he will not agree to include in our list of reserved areas.

Paragraph 2. He is ready to agree subject to reduction of period therein specified from five to three years.

Paragraph 3. No comment.

5. As to the duration of treaty after keen argument I got him to agree to the ten and five years required.

6. As to Shanghai and Tientsin I said I must think over his five and three years. I did not see how I could agree as it meant tying a rope round future fate of both: but I could study it further. Similarly as regards reduced period from five to three years in paragraph 2 of new draft article.

7. Talk then centred on Hankow, he refusing to exclude it, I maintaining that I must insist upon it for various reasons I need not recapitulate. It was accordingly left there that point also should stand over for further discussion.

8. We meet again tomorrow when I hope to take him for another river trip.

9. It is impossible to foretell how our conversation will shape but I may seek to secure acceptance of draft as it stands in return for dropping Hankow.

Repeated to Peking and Shanghai.

² No. 439.

³ Not printed. Paragraph 1 of this formula read: 'The transfer of jurisdiction over British subjects from the British to the Chinese courts as provided in this treaty shall not apply in areas where Chinese administrative jurisdiction does not apply.'

⁴ The text is here uncertain.

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 26, 9.0 a.m.)

No. 226 Tour: Telegraphic [F 2831/34/10]

NANKING, May 24, 1931¹

Following is text referred to in my immediately preceding telegram.²
Begins.

Article 16. 1. Subjects of His Majesty will not be subject to the jurisdiction of the Chinese courts in the municipal areas at Shanghai, Tientsin and Hankow, as shown on the attached maps, where the jurisdiction of the British courts will continue in force. Subjects of His Majesty in these areas shall be liable for the payment of Chinese taxation as provided in Article 6 of the present treaty, provided such taxation is equally paid by Chinese citizens and other foreign nationals in the said areas.

2. It is agreed that, subject so far as may be necessary to the concurrence of other interested Governments, further negotiations will be entered into within a period of five years from the date of the enforcement of the present treaty on the subject of the arrangements to be made in the areas specified in the above paragraph.

3. His Majesty's Government in the United Kingdom declare their readiness to enter immediately into negotiations for the rendition of the British Concession at Canton on the understanding that all public and private property rights and interests will be duly safeguarded in the terms of such rendition.

Exchange of notes.

His Majesty's Minister to Minister for Foreign Affairs.

Sir,

With reference to Article 16 of the treaty concluded between us today, I have the honour to inform Your Excellency that so far as His Majesty's Government are concerned they are prepared to support immediate negotiations for a solution of the question of the extra-Settlement roads at Shanghai subject to satisfactory arrangements being made in regard to the policing and maintenance of the said roads and the payment of rates and provision of municipal services in the areas in question.

I have the honour to request Your Excellency's confirmation of my understanding that under the provisions of Article 18 of the treaty above referred to subjects of His Majesty resident in areas in China in which Chinese administrative jurisdiction does not at present apply will enjoy all such exemption from Chinese jurisdiction as may be enjoyed by the nationals of any other country.

Minister for Foreign Affairs to His Majesty's Minister.

¹ The time of despatch is not recorded.

² No. 438.

Sir,

I have the honour to acknowledge receipt of Your Excellency's note of today's date which reads as follows.

(Quote note in full.)

I have the honour to confirm Your Excellency's understanding as set forth above as correct.

Repeated to Peking and Shanghai.

No. 440

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 26, 9.30 a.m.)

No. 228 Tour: Telegraphic [F 2833/34/10]

NANKING, May 26, 1931, 1.25 a.m

My telegram No. 225 (Tour).¹

I continued discussion with Minister for Foreign Affairs during long river trip May 25. I put up following amendment to draft text contained in my telegram No. 226.² Insert following opening words at the beginning of text: 'During period of five years specified in paragraph 2 below and pending outcome of negotiations therein provided for'; and in second paragraph before words 'the arrangements to be made' insert the words 'the transfer of jurisdiction and'. I had prepared these amendments in consultation with United States Minister with a view to finding a wording which would to some extent seem to meet Minister for Foreign Affairs' objection to a time limit and also improve draft from our point of view by stipulating definitely for a minimum breathing space of five years and linking up termination of that period with outcome of negotiations referred to in second paragraph which were also to cover jurisdiction.

2. We discussed this amended draft on and off for some length. At suitable moment and in response to his specific enquiry I gave the Minister for Foreign Affairs to understand that if he would accept draft as it stood I would recommend to you dropping of Hankow subject . . .³ satisfactory settlement of all outstanding points (on which I did not now anticipate serious difficulties). He said and repeated again and again that he could not accept the formula because there was no definite time limit; if negotiations provided for in clause 2 had no result extraterritoriality would continue indefinitely. In the course of protracted argument I offered to accept ten years with guillotine at the end and dispense with clause 2 altogether. He rose gradually but insisted absolutely that to justify his action *vis-à-vis* Chinese public there must be differentiation between Shanghai and Tientsin; in the case of the former special circumstances attending existence of International Settlement were recognised; in the case of latter there were only Concessions to recover which his Government was absolutely committed.

¹ No. 438.

² No. 439.

³ The text is here uncertain. Another text here read: 'subject again to satisfactory'.

3. Finally after endless haggling and argument I induced him to make what I believe to be firm offer as follows:—Greater *Shanghai* municipal area which includes Woosung to be excluded as in our draft with guillotine at the end of ten years; that is to say initiation of negotiations within five years and whether successful or not extraterritoriality to end after ten years. *Tientsin* a smaller area including Concession[s] and ex-Concession[s] and any necessary neighbouring Chinese territory to be excluded for five years only without reference to any negotiations.

4. In my opinion this meets us and I shall now prepare formula on that basis on the understanding that all other outstanding points are settled. I think it is better than our draft as submitted. If things go well at Shanghai we should be able to negotiate a settlement at the end of five years, if not we shall have a further breathing space till 1942. In case of *Tientsin* we have five years assured breathing space in which to prepare for end of extra-territoriality; in the case of Concession it would be untenable in the face of Chinese hostility once troops are withdrawn. Modified areas [*sic*] proposed for *Tientsin* suits us better owing to many . . .⁴ municipal areas including much Chinese territory we do not want and excluding other areas we do want.

5. New draft will follow as soon as prepared.

I have postponed my departure for a week in the hope that if we can reach agreement I may be able to initial treaty, text of which can then go home for your final scrutinizing with a view to signature in July or August.

Repeated to Peking for *Tientsin* and Shanghai.

⁴ The text is here uncertain. The correct sense of this passage may have been ' . . . owing to full municipal area including' &c.

No. 441

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received May 26)

No. 230 Tour: Telegraphic [F 2846/34/10]

NANKING, May 26, 1931¹

My telegram No. 228.²

Following is text which I am today presenting to Minister for Foreign Affairs, begins:

Article 16.

Subjects of His Majesty in the area of greater Shanghai as shown on the attached map shall not be amenable to the jurisdiction of the Chinese courts during a period of ten years from the date of the coming into force of the present treaty, provided always that a settlement of the question of jurisdiction in the said area may be reached by negotiation and arrangement between the two High Contracting Parties at any time after the expiry of five years from the same date. Subjects of His Majesty in the area at *Tientsin* shown on the attached map shall not be amenable to the jurisdiction of the

¹ The time of despatch is not recorded.

² No. 440.

Chinese courts during a period of ten years from the date of the coming into force of the present treaty, provided always that a settlement of the question of jurisdiction in the said area may be reached by negotiation and agreement between the two High Contracting Parties at any time after the expiry of five years from the said date.³ Subjects of His Majesty in the area at Tientsin shown on the attached map shall not be amenable to the jurisdiction of the Chinese courts during a period of five years from the date of the coming into force of the present treaty. Subjects of His Majesty in the areas above specified areas [sic] shall be liable for the payment of Chinese taxation as provided in Article 6 of the present treaty, provided such taxation is equally paid by Chinese citizens and other foreign nationals in the said areas.

Exchange of notes.

Sir,

With reference to Article 16 of the treaty concluded between us today, I have the honour to inform Your Excellency that His Majesty's Government in the United Kingdom are prepared to support immediate negotiations for a solution of the question of the extra-Settlement roads at Shanghai subject to satisfactory arrangements being made in regard to the policing and maintenance of the said roads and the payment of rates and provision of municipal services in the areas in question.

I have further the honour to declare that His Majesty's Government in the United Kingdom are prepared to enter immediately into negotiations for the rendition of the British Concession at Canton on the understanding that all public and private property rights and interests shall be duly safeguarded in the terms of such rendition.

I have the honour to request Your Excellency's confirmation of my understanding that the jurisdiction of the British courts in the areas specified in Article 16 above referred to will continue in force as long as subjects of His Majesty in the said areas are not amenable to the jurisdiction of the Chinese courts and further that under the provisions of Article 18 of the treaty subjects of His Majesty resident in areas in China in which Chinese administrative jurisdiction does not at present apply shall enjoy all such exemption from Chinese jurisdiction as may be enjoyed by the nationals of any country.

Minister for Foreign Affairs to His Majesty's Minister.

Sir,

I have the honour to acknowledge receipt of Your Excellency's note of today's date which reads as follows: (quote note in full).

I have the honour to take note of Your Excellency's declaration and to confirm your understanding quoted above as correct, ends.

Repeated to Peking for Tientsin and Shanghai.

³ It was suggested in the Foreign Office that the preceding sentence was included in the text in error.

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 26, 9.10 p.m.)

No. 233 Tour: Telegraphic [F 2854/34/10]

NANKING, May 26, 1931, 11.55 p.m.

My telegram No. 228.¹

In the morning of May 26 I sent to Minister for Foreign Affairs text contained in my telegram No. 230.² In the afternoon he suggested another river trip when he told me that despite his utmost endeavours Nationalist Government had turned down his offer of May 25 insisting on limit of five years and three for Shanghai and Tientsin respectively; that matter had been submitted to the President who had decided on five years for both; and that that was what he as Minister for Foreign Affairs speaking on behalf of Government could now offer me and no more.

2. I was constrained to use plain language and emphasised that my position was an impossible one; I had been trapped into showing my hand and considering an offer which was in itself possibly further than I should have gone and on which he had now gone back; I refused absolutely to discuss terms which I knew His Majesty's Government would not for a moment consider. In the circumstances, the conditional offer of Canton and, much more, Hankow lapsed and we found ourselves back in the position outlined in your telegram No. 77³ namely of abandoning the lead and waiting for other Powers to come into line. While plainly showing my indignation I kept him in play on the assumption that it might be a try on, and he gradually came round to discussing text of my draft which he complained went further than his offer of the day before in placing duration of ten years in the forefront instead of providing first for a minimum period of five years, then an undertaking to negotiate, and then an extension to ten years if agreement could not be reached. As we seemed once more on common ground we redrafted text of article 16 and this he undertook to submit again to his colleagues, especially Minister of Finance who[m] he alleged to be the obstacle, in a final attempt to secure their assent. The note attached to the draft was acceptable in substance except for last sentence for deletion of which he pressed but I insisted that it must stand though I agreed that Mr. Teichman and Hsu Mo should seek different wording and make any other verbal amendments in note provided substance remained unchanged.

3. I am now awaiting developments and unless he stands by his offer of May 25 shall leave for the North by first available train leaving it that matter cannot for the moment be pursued further and that both Governments must have time to consider position now reached.

4. Minister for Foreign Affairs leaves for Shanghai night of May 27.
Repeated to Shanghai, Peking and Commander-in-Chief.

¹ No. 440.

² No. 441.

³ No. 403.

No. 443

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 128 Tour: Telegraphic [F 2846/34/10]

FOREIGN OFFICE, *May 27, 1931, 6.0 p.m.*

Your telegram No. 230.¹

Questions of duration and reserved areas are still under consideration, but in the meantime I should be glad to learn the views of the joint committee of the China Association and Chamber of Commerce on the text contained in your telegram under reference, and also whether your latest proposals in regard to Shanghai are in harmony with the recommendations in Part II of Judge Feetham's report.² Part I of this report has been received in the Foreign Office, but not Part II.

Repeated to Peking.

¹ No. 441.

² This report was presented to the Shanghai Municipal Council under cover of a letter to the Chairman of the Council dated April 23, 1931, and published in two parts, respectively, on April 25 and June 16, 1931.

No. 444

Sir M. Lampson (Nanking) to Mr. A. Henderson

(Received May 28, 9.0 a.m.)

No. 240 Tour: Telegraphic [F 2867/34/10]

NANKING, *May 28, 1931, 1.0 a.m.*

My telegram No. 233 Tour.¹

On May 27 Minister for Foreign Affairs asked me to call privately and we discussed draft of Article 16 and attached exchange of notes as contained in my telegram No. 238.² These were accepted somewhat equivocally by Dr. Wang. He proceeded to explain that while he was glad to say Minister of Finance and President were now more favourably disposed, President was much exercised regarding attitude of Chinese Minister at Washington and anxious lest, if terms of Article 16 as now drafted came through him to the knowledge of Canton leaders it might be used as a weapon against Nanking Government. He therefore suggested, if and when everything was disposed of, we should initial all the other articles etc. and leave Article 16 outstanding subject to a sort of 'gentleman's agreement'; that so far as he, Dr. Wang, was concerned, as long as he remained Minister for Foreign Affairs he would be prepared to sign it later; or alternatively that we should initial none of the

¹ No. 442.

² Not printed. This telegram of May 27 transmitted texts of Article 16 and the attached exchange of notes which were, subject to minor verbal variation, the same as those printed in No. 458, enclosure 3 and annex E.

Articles and let the whole thing stand over for the time being. In subsequent discussion we explored possibility of an exchange of letters or other form of written assurance regarding Article 16 and we decided to meet again later on in the day with Messrs. Teichman and Hsu Mo in attendance.

2. At this later meeting I said I could not consider initialling the other texts without Article 16 and eventually we agreed (on my part *ad referendum* to you) if and when the time came for doing so to exchange copies of whole draft treaty etc. under covering letters drafts of which are contained in my immediately following telegram.³ My further telegram immediately following the one above referred to⁴ contains an index of the Treaty and attached documents of which only ratification article now remains outstanding.

3. Subject to agreement being reached on ratification article and subject to you approving Article 16 and attached notes as contained in my telegram No. 238 I request your authority to exchange agreed copies in covering letters as proposed. I recommend this procedure as draft treaty represents in my opinion eminently favourable settlement and we could then sit back and await developments in political situation.

4. I have explained position fully to United States Minister who is warning State Department against disclosing anything to Chinese Minister. I beg that everything may be kept strictly confidential for the time being.

5. Dr. Wang returns here on Monday⁵ morning and it would be most helpful if I could have your instructions by then so as to round matter up.

Repeated to Peking and Shanghai.

³ Not printed. The texts in this telegram were the same as those printed as enclosures 1 and 2 in No. 458, except that the first note did not refer to the preamble and did not include the amendments recorded in Nos. 452 and 454.

⁴ Not printed.

⁵ June 1.

No. 445

Sir R. Lindsay (Washington) to Mr. A. Henderson
(Received May 29, 9.30 a.m.)

No. 297 Telegraphic [F 2888/34/10]

WASHINGTON, May 28, 1931, 7.19 p.m.

Your telegram No. 320¹ and my despatch No. 853² (sent by last bag) containing copy of memorandum communicated to State Department in accordance with your instructions.

In letter received today³ (copy by bag) Under Secretary of State informs me views contained in memorandum are . . .⁴ [? substantially] in accord with views of State Department.

¹ Not printed. See No. 425, note 3.

² Not printed.

³ Printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 867-8.

⁴ The text is here uncertain.

Department entirely concurs in view that offer to surrender Hankow and Canton should only be made as final step in securing a definite treaty containing adequate safeguards.

Letter continues that, with my memorandum before it, Department had drafted a new formula providing for reservation of all four areas under discussion which it hoped might be worth proposing to the Chinese. Formula was to have been submitted simultaneously to me for your information and to United States Minister in China for consideration with Sir M. Lampson. Department has however abandoned this intention for the present in view of telegrams just received from United States Minister indicating that Sir M. Lampson has proposed to Chinese Minister for Foreign Affairs 'a formula with regard to reserved areas which cannot but disclose to the Chinese that the British negotiators are prepared to dispense with reservation of Hankow and Canton'.

Letter concludes with the hope that in having proposed to Chinese 'though tentatively' formula involving non-reservation of Hankow and Canton, British negotiators will have 'at the same time' obtained Chinese commitment to a definite treaty containing adequate safeguards.

No. 446

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received May 30, 9.30 a.m.)

No. 244 Tour: Telegraphic [F 2910/34/10]

NANKING, May 28, 1931¹

Following for Sir V. Wellesley:—

Begins:—

My telegram No. 240 Tour.²

I hope results of our labours will be approved (if possible quickly) and that I shall be authorised to wind them up as proposed and clear out of Nanking. The sooner we are away now the better: and I have booked to leave on June 4 which, if I get your answer by Monday,³ should give us time for all mechanical work before we leave.

It is disappointing not to have reached finality: but with politics as they are, things are better so. And C. T. Wang yesterday gave a 'gentleman's agreement' that is to say in three months time when present crisis⁴ was over he would be ready to resume afresh and sign. Whether he will later on stick to it is another matter, but for the moment I do not think we can expect more.

What do you think of our agreement?

¹ The time of despatch is not recorded.

² No. 444.

³ June 1.

⁴ For the Chinese political situation at this time, see No. 460, paragraph 61.

Mr. A. Henderson to Sir M. Lampson (Nanking)
No. 130 Tour: Telegraphic [F 2846/34/10]

FOREIGN OFFICE, *May 29, 1931, 12.20 p.m.*

Your telegram No. 230.¹

1. The exclusion of Greater Shanghai for so long a period as ten years may appear a tempting bait but the objections to a fixed time limit still seem to be very strong. When the time comes for Shanghai to pass under Chinese jurisdiction the negotiation of adequate safeguards for the vast concentration of foreign interests there will be as important as the negotiations of safeguards in the present treaty. If it is now agreed that at some future fixed date foreign jurisdiction will automatically cease in Shanghai it will be difficult, with our hands so tied, to secure in the proposed negotiations the safeguards that may be really essential. If on the other hand the future of Shanghai is not settled now but is left open for future negotiations this will be an added incentive to the Chinese to make the arrangements in the Treaty now under negotiation work well and actual experience of the working of these arrangements should be a valuable guide as to the safeguards that would be needed in Shanghai.

2. Acceptance of a ten years time limit would not really put off our difficulties at Shanghai till the time limit had expired. The effect would be that British subjects at Shanghai would pass under Chinese jurisdiction at the very moment that the treaty now under negotiation terminated. For them there would be no treaty protection whatever. As soon as this was realised in Shanghai there might be an immediate panic.

3. Even if we have to contemplate the possibility that Shanghai may have to pass under Chinese jurisdiction within the next ten years it seems of great importance that, just as in the case of the Treaty now under negotiation, there should be an adequate transition stage extending perhaps even beyond a period of ten years from now, and adequate safeguards.

4. The same considerations, though in lesser degree, apply in the case of Tientsin.

5. I should be glad if you would bear the above considerations in mind when discussing this matter with the joint Committee at Shanghai. I am concerned at the prospect of a time limit for Shanghai and Tientsin instead of simple exclusion from the treaty and reservation for subsequent negotiation, which is the most hitherto contemplated, and shall be glad to have your considered views in due course.

¹ No. 441.

No. 448

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 134 Tour: Telegraphic [F 2910/34/10]

FOREIGN OFFICE, *May 30, 1931, 3.0 p.m.*

Your telegram No. 244.¹

Following from Sir V. Wellesley:

I fear proposed initialling of whole treaty cannot be approved without committing us too far as regards reserved areas and duration, on which no decision has been reached here or, as regards areas, can be taken without full consideration. Rest of the treaty seems eminently satisfactory and I fully share and sympathise with your disappointment at not reaching finality after so much admirable work.

Repeated to Peking.

¹ No. 446.

No. 449

Sir M. Lampson (Nanking) to Mr. A. Henderson

(Received May 31, 12.20 p.m.)

No. 248 Tour: Telegraphic [F 2911/34/10]

NANKING, *May 31, 1931, 1.20 p.m.*

Your telegram No. 130¹ has crossed my telegram No. 240² reporting latest developments. There is now no question of signing or even finally agreeing to anything.

2. Please telegraph urgently whether I shall (a) initial and exchange all Articles except Article 16 as suggested by Minister for Foreign Affairs; (b) exchange letters with him according to text in my telegram No. 241;³ or (c) merely leave matters in the air on basis of a 'gentleman's agreement' with Minister for Foreign Affairs to resume on the same basis when the present political crisis is past.

3. United States Minister leaves Monday⁴ night and I shall do likewise on Thursday. For political reasons it is undesirable to dally here any longer.

4. Views of Consul-General at Shanghai, principal spokesmen of Shanghai Community and Feetham are before you already in Shanghai telegram No. 27 to me.⁵ Feetham's report part II has been seen neither by Brennan nor myself.

5. My . . .⁶ is that while there is undoubted force in considerations set forth in your telegram under reference and due weight must be given to

¹ No. 447.

² No. 444.

³ Not printed. See No. 444, note 3.

⁴ June 1.

⁵ Not printed. This telegram of May 30 reported the views set forth in No. 460, paragraph 66.

⁶ The text is here uncertain.

Feetham's views I fancy that both underestimate political forces at work. No modern Chinese Government will agree to give indeterminate period to Shanghai. We are in my view lucky to be offered Wang's ten years assuming that later when the present crisis is over he sticks to it which . . .⁷ (? of course) (? insure)⁷.

6. Indeterminate period with negotiations within five years, see your telegram No. 77,⁸ leaves the door open to Chinese at any time to make the whole position at Shanghai untenable by means of which they have shown themselves past masters. Maximum period of ten years at least gives a definite breathing space during which our interests can adjust themselves to change which is bound to come sooner or later whether we wish it or not.

7. Which is the wiser course to choose is for His Majesty's Government to say. I can only judge their views by general trend of your despatch No. 303 to Washington.⁹

8. In any event I now see no special urgency in reaching a decision which is a very big one and I beg I may receive earliest reply on paragraph 2 of this telegram.

Repeated to Peking, and Shanghai.

⁷ The text is here uncertain. Another text here read: 'which quite possibly he won't.'

⁸ No. 403.

⁹ No. 366.

No. 450

Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received June 1, 11.25 a.m.)

No. 250 Tour: Telegraphic [F 2979/34/10]

NANKING, June 1, 1931, 2.15 p.m.

Following for Sir V. Wellesley.

Best thanks for your telegram No. 134.¹

Sole point now is that I should wind up *somehow* and clear out of here. We none of us can stand it any longer—so please expedite decision which of those courses set out in my telegram No. 248² I shall adopt before I go. I shall leave Thursday³ whether I have your instructions by then or not. You probably do not realize that train accommodation has to be booked at least one week in advance; nor oppressive heat thirty-six hours train journey which steadily . . .⁴ at this time of year.

¹ No. 448.

² No. 449.

³ June 4.

⁴ The text is here uncertain.

No. 451

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 136 Tour: Telegraphic [F 2979/34/10]

FOREIGN OFFICE, *June 2, 1931, 12.55 p.m.*

Your telegram No. 250.¹

Following from Sir V. Wellesley:

I am afraid it will not be possible to send you instructions till Wednesday.²
The Secretary of State would like you to remain at Nanking till you have been able to act on them.

¹ No. 450.

² June 3.

No. 452

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 138 Tour: Telegraphic [F 2979/34/10]

FOREIGN OFFICE, *June 2, 1931, 4.30 p.m.*

My telegram No. 136.¹

Following from Sir V. Wellesley.

I fear decision will not now be taken till Thursday. On the assumption that you will be authorised to exchange agreed texts duration Article should be worded as in our telegram No. 137,² text of letter in your telegram No. 241³ should be amended by omitting words 'to London' and substituting 'His Majesty's Governments' for 'His Majesty's Government', and word 'two' before 'High Contracting Parties' in your telegram No. 238,⁴ paragraph 1, should if possible be omitted.

¹ No. 451.

² No. 453.

³ Not printed. See No. 444, note 3.

⁴ Not printed. See No. 444, note 2.

No. 453

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 137 Tour: Telegraphic [F 2825/34/10]

FOREIGN OFFICE, *June 2, 1931, 4.45 p.m.*

Subject to decision on question of principle following should be text of Article 21. Additional paragraphs to Articles 2 and 3 will then be unnecessary.

Begins.

1. The present Treaty shall be binding during a period of ten years from the date of its coming into force.

2. Notwithstanding the provisions of paragraph 1 of this Article, and without prejudice to the provisions of paragraph 5, the provisions of Article 2 of the Treaty relating to the special chambers to be established by the Chinese Government, and those of Article 3 relating to the legal counsellors to be appointed by the Chinese Government, shall remain in force for such period as the Chinese Government may deem appropriate, not being less than five years.

3. Either His Majesty or the President may demand that on the expiration of the said period of ten years, the provisions of the draft Treaty shall be revised, notice of such a demand shall be given at least twelve months before the expiration of the said period of ten years, and negotiations shall thereupon be entered into for the purpose of effecting such revision.

4. In case neither His Majesty nor the President shall have given notice at least twelve months before the expiration of the said period of ten years of his intention to terminate the Treaty, it shall remain in force for an additional period of five years, and thereafter for successive periods of five years on twelve months' notice to that effect.

5. The provisions of the preceding paragraphs of this Article do not apply to Article 18 of the present Treaty, which shall remain in force until terminated or replaced by the common agreement of His Majesty and the President.

Ends.

No. 454

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 139 Tour: Telegraphic [F 2911/34/10]

FOREIGN OFFICE, *June 4, 1931, 6.0 p.m.*

Your telegram No. 248.¹

You are authorised to exchange agreed copies of the whole Treaty and attached documents under cover of letters as in your telegram No. 241.² Words 'to London' should however be omitted and 'His Majesty's Government' should be replaced by 'His Majesty's Governments'. It is of course to be understood that if the text is ultimately accepted minor amendments would be possible if found necessary for drafting or constitutional reasons between now and time of signature.

¹ No. 449.

² Not printed. See No. 444, note 3.

No. 455

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 489 [F 2899/34/10]

FOREIGN OFFICE, *June 4, 1931*

Sir,

The French Ambassador had an interview with Sir Victor Wellesley at the Foreign Office on May 27th. He read to him a long despatch from his Government, in which they strongly deprecated the rapidity with which His Majesty's Government were liquidating the situation in China. They considered that this would recoil on the heads of His Majesty's Government before long. The position of the Nanking Government was becoming more unstable from day to day. The new Canton rebellion might very easily become a repetition of what had happened in 1926. With whom would it then be possible to conclude a treaty? The French Government had no intention of acting with undue haste, and would await developments before making any decision.

2. While thanking Monsieur de Fleuriau for this communication, Sir Victor Wellesley told His Excellency that whatever substance there might be in the arguments which his Government advanced, they would surely realise that, having once embarked on these negotiations, it would be impossible, not to say extremely unwise, if His Majesty's Government were to attempt to withdraw at this stage. Sir Victor Wellesley did not altogether share the French view that the settlement of the extraterritoriality question with China would prove as disastrous as His Excellency supposed. On the contrary, he thought that an unreasonable clinging to the relics of the past age in the teeth of the rising tide of nationalism in China would be infinitely worse. It was far better to meet the situation than to allow oneself to be overtaken by events; nevertheless it was, of course, the case that circumstances might arise which would make it difficult to sign the Treaty.

I am, &c.,

ARTHUR HENDERSON

No. 456

Mr. A. Henderson to Sir M. Lampson (Nanking)

No. 141 Tour: Telegraphic [F 3242/34/10]

FOREIGN OFFICE, *June 4, 1931, 6.5 p.m.*

My telegram No. 139.¹

Chinese Minister called to see me today on instructions from his Government to represent that we should agree to make yet one further concession to the Chinese Government as regards reserved areas, namely territory of Tientsin.

¹ No. 454.

I told Mr. Sze that His Majesty's Government could not go beyond the position stated by you in the negotiations so far as the reserved areas are concerned.

His Majesty's Government had gone to the greatest lengths to meet the wishes of the Chinese Government, and I would ask him to make it clear to his Government that the limit of concession had been reached.

No. 457

*Sir M. Lampson (Nanking) to Mr. A. Henderson
(Received June 6, 6.30 p.m.)*

No. 259 Tour: Telegraphic [F 3299/34/10]

NANKING, June 6, 1931¹

Your telegram 139.²

Copies were exchanged on June 6. Amended words in the last sentence of my letter read 'which I am now referring for confirmation to His Majesty's Government'. Minister for Foreign Affairs' reply is unchanged.

2. Article 22 is as in your telegram No. 132.³ I made the verbal statement referred to in your telegram No. 140.⁴ As regards Article 21 see my telegram No. 260⁵ and my telegram No. 261.⁶

3. Minister for Foreign Affairs made a verbal reservation in regard to Article 16 namely that it would not be fair to me if he did not state that Article might not be accepted in its entirety by his Government, referring to reservation of Tientsin. I replied by reading him your telegram No. 141.⁷

4. We discussed the question of statement to the press and agreed on the following, not as a communiqué but as news which will be given out forthwith.

¹ The time of despatch is not recorded.

² No. 454.

³ Not printed. This telegram of May 29 instructed Sir M. Lampson to amend the draft of Article 22 so that it should read as in No. 458, enclosure 3.

⁴ Not printed. The verbal statement was to the effect that when the Treaty was signed, a note would be addressed to Dr. Wang referring to Article 22 and stating: 'His Majesty's Government in the United Kingdom will be prepared to deposit the ratification of the said Treaty in respect of the United Kingdom as soon as possible, provided (i) that they are satisfied that the National Government of the Republic of China are able to give effect throughout China to the terms of the Treaty; (ii) the National Government of the Republic of China shall have concluded agreements for the modification or abolition of extraterritorial rights with all other Powers, party to the Treaty signed at Washington, the 6th day of February, 1922.'

⁵ Not printed. This telegram of June 6 summarized the discussion reported in No. 460, paragraph 67.

⁶ Not printed. This telegram of June 6 transmitted the text of Article 21 as printed in No. 458, enclosure 3.

⁷ No. 456.

'The discussions between Dr. C. T. Wang and Sir M. Lampson on the subject of jurisdiction in China, which have been proceeded with during the past week, have made satisfactory progress and have now reached the stage where it is considered desirable to refer the results to their respective Governments. Sir M. Lampson is proceeding to Peking and plans to return later to conclude negotiations.'

Repeated to Peking and Shanghai.

No. 458

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received June 23)

No. 157 Tour [F 3563/34/10]

NANKING, June 6, 1931

Sir,

With reference to my telegram No. 259, Tour Series,¹ of the 6th June, I have the honour to transmit herewith copies of the draft treaty and attached documents on the subject of jurisdiction in China as exchanged between Dr. C. T. Wang and myself to-day, together with copies of the covering letters also exchanged at the same time. The index to the treaty is attached for convenience of reference, but does not form part of the texts exchanged. A full report on the negotiations is in preparation and will be forwarded, together with copies of the maps referred to in Article 16, via Pacific, in a few days.²

2. I should be glad if twenty copies of the print of the draft treaty, &c., could be forwarded to me as soon as possible, via Siberia.

I have, &c.,

MILES W. LAMPSON

ENCLOSURE 1 IN No. 458

Sir M. Lampson to Dr. Wang

NANKING, June 6, 1931

My dear Dr. Wang,

With reference to our recent conversations I should be glad to receive your confirmation that the draft treaty in twenty-two articles and preamble and attached documents marked "A" to "I", concerning the readjustment of matters relating to jurisdiction over subjects of His Majesty in China, copies of which were exchanged between us to-day and which I am now referring for confirmation to His Majesty's Governments, are acceptable to you as they are to me.

Yours sincerely,

MILES W. LAMPSON

¹ No. 457.

² See No. 460. The maps in question are not reproduced.

ENCLOSURE 2 IN No. 458

Dr. Wang to Sir M. Lampson

NANKING, *June 6, 1931*

My dear Sir Miles Lampson,

In reply to your letter of to-day's date on the subject of the draft treaty in twenty-two articles, preamble, and attached documents marked "A" to "I", relating to jurisdiction over subjects of His Majesty in China, copies of which were exchanged between us to-day, I have the honour to inform you that the said draft treaty and attached documents are acceptable to me and are being submitted to my Government for confirmation.

Sincerely yours,

CHENGTING T. WANG

ENCLOSURE 3 IN No. 458

DRAFT EXTRATERRITORIALITY TREATY

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A.—Declaration regarding the Chinese Courts.

B.—Declaration regarding the Judges of the Special Chambers.

C.—Declaration regarding the Legal Counsellors.

D.—Exchange of notes regarding article 8.

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I.—Agreed Minute regarding immunity of courts from external interference, legal counsellor of British nationality, lawyers, military requisitions, court sentences and personal status. (Unpublished.)

PREAMBLE

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and

His Excellency the President of the National Government of the Republic of China;

Being animated by the desire further to strengthen the bonds of friendship happily existing between them, have resolved to conclude a Treaty for the purpose of readjusting matters relating to jurisdiction over subjects of His Majesty in China and have for this purpose appointed as their Plenipotentiaries:—

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India:

For Great Britain and Northern Ireland and all parts of the British Empire which are not separate members of the League of Nations:

For the Dominion of Canada:

For the Commonwealth of Australia:

For the Dominion of New Zealand:

For the Union of South Africa:

For the Irish Free State:

For India:

His Excellency the President of the National Government of the Republic of China:

Who, having communicated their full powers, found in good and due form, have agreed as follows:—

ARTICLE I

1. Except as otherwise provided by the present Treaty, subjects of His Majesty in China shall as from its coming into force be subject to the jurisdiction of the modern Chinese courts of justice (Fa Yuan) and to the duly promulgated laws, ordinances and regulations of China.

2. As regards rights of appeal and in all other matters of procedure the modern Chinese codes of law and procedure shall be applicable to subjects of His Majesty. In all legal proceedings and in all matters relating to the administration of justice by the courts subjects of His Majesty shall enjoy treatment not less favourable than that accorded to Chinese citizens.

3. Except as provided in paragraph 4 of this Article, subjects of His Majesty shall not be subject to the jurisdiction of the police courts; nor shall they be subject to the jurisdiction of any other tribunals than the modern Chinese courts of justice.

4. Subjects of His Majesty shall be subject to the jurisdiction of the modern police courts in case of offences under the police offences code or under municipal regulations, but in each of such cases the penalty imposed by the court shall not exceed a fine of 15 yuan (dollars) or, in the event of such fine not being paid, detention at the rate of one day's detention for each yuan (dollar) of the fine imposed up to a maximum of fifteen days.

ARTICLE 2

In the district courts in Harbin, Shenyang (Mukden), Tientsin, Tsingtao, Shanghai, Hankow, Chungking, Canton, Foochow, and Kunmin (Yunnanfu), and in the high courts having appellate jurisdiction over such district courts, with the exception of the Supreme Court, special chambers shall be established for dealing with cases involving subjects of His Majesty as defendants or accused. All cases involving subjects of His Majesty, wherever resident, as defendants or accused, except when they may be taken to the Supreme Court on final appeal, or when a subject of His Majesty concerned may elect, in writing, to submit himself to the jurisdiction of the local modern court having jurisdiction over purely Chinese cases of a similar nature, shall be tried only before these special chambers. Any case involving a subject of His Majesty as defendant or accused, which originates within the ordinary jurisdiction of a court other than one of those mentioned above, will (unless the subject of His Majesty concerned elects otherwise, as provided above) be transferred for trial to the special chamber most accessible to the court within whose jurisdiction the case originates.

ARTICLE 3

1. To each of the special chambers provided in the preceding Article there shall be attached foreign legal counsellors who shall be selected and appointed as officials of China by the Chinese Government from among foreign legal experts of high moral character who possess the training, qualifications and practical experience necessary for appointment to judicial offices.²

2. The names, and the amount and conditions of payment of salaries, of the legal counsellors will be communicated by the Minister for Foreign Affairs of the Chinese Government to His Majesty's Diplomatic Representative in China, and their terms of service will be governed by contracts in accordance with the attached declaration by the Chinese Government. They shall remain in office for a specified term, unless dismissed for cause duly shown, and shall otherwise receive the consideration and respect due to the dignity of their office.

3. A legal counsellor need not permanently reside at the place in which the special chamber of the court to which he is assigned is established and there shall be a flexible and practicable system of administration of assignments in order to ensure efficiency in the employment of the said legal counsellors.

4. The legal counsellors shall serve under the Minister of Justice, and shall be deputed by the Ministry of Justice for serving during the hearing of cases involving subjects of His Majesty as defendants or accused in the special chambers provided

¹ Sir M. Lampson was informed in Foreign Office telegram No. 338 to Peking of November 5 that this word should read 'the'. See also notes 2-4 below.

² This word should read 'office'.

in the preceding article. It shall be the duty of the legal counsellors in these cases to observe the workings of the special chambers. They shall have access to the files of the proceedings, and may present their views in writing to the judges, who shall give due consideration to the views thus expressed by the legal counsellors. Adequate arrangements will be made for interpretation in order to enable the legal counsellors to follow and observe the proceedings in court. The legal counsellors shall forward to the Minister of Justice such reports as they may consider necessary, and copies of these reports in cases involving subjects of His Majesty as defendants or accused will immediately be furnished by them to His Majesty's Diplomatic Representative in China upon request.

5. The legal counsellors shall be authorised to receive directly observations regarding the administration of justice, the execution of judgments, or the manner of the application of the law, and at the request of any of the interested parties shall bring such observations to the notice of the Minister of Justice with a view to ensuring the observance of Chinese law. Copies of such observations in cases involving subjects of His Majesty will likewise immediately be furnished by the legal counsellors to His Majesty's Diplomatic Representative in China upon request.

6. Similarly the legal counsellors shall be authorised to receive any other observations or complaints, including such as may be caused by domiciliary visits, expropriations, requisitions, or arrests, &c., which observations shall be similarly dealt with. Immediately following any domiciliary visits, search, or arrests, directly affecting subjects of His Majesty in any judicial district, the local authorities shall notify the legal counsellor who shall be most accessible in point of time.

7. In all cases in which subjects of His Majesty are involved as defendants or accused a foreign legal counsellor shall be present at the hearings of the cases in both the high and district courts and judgment shall be reserved until he has made within three days after the conclusion of the trial such observations in chambers as he may desire to the judges, and, in the event of the judges failing to give them due consideration, the execution of the judgment will be suspended until the observations of the legal counsellor have been considered by the Ministry of Justice, which will take such action as it deems appropriate in the interests of justice.

8. The Chinese courts referred to in Article 1 shall not begin to exercise jurisdiction over subjects of His Majesty until the special chambers referred to in Article 2 have been organised and until the legal counsellors above mentioned have been appointed and installed in office as provided in this Article.

ARTICLE 4

1. A subject of His Majesty appearing before a Chinese court as party to a civil or criminal suit may employ duly qualified Chinese or British or other foreign lawyers and interpreters, provided in the case of the lawyers that they are registered as such with the Chinese Government, and such lawyers, if of foreign nationality, shall have the same rights and privileges as Chinese lawyers appearing before the court, and shall be subject to the laws and regulations governing Chinese lawyers.

2. Hearings shall be in the Chinese language, but the court shall take measures to ensure an understanding of the proceedings by all parties to the case and have the assistance of competent interpreters if necessary.

3. Subjects of His Majesty, parties to a suit, or persons authorised by them shall, upon payment of the usual official fees for such copy, have the right to obtain certified copies of the evidence and judgment in such suit, and arrangements will,

if necessary and where possible, be made for supplying on application and on payment of appropriate fees translations of such documents.

4. In all judicial proceedings in which subjects of His Majesty are summoned to appear, whether as parties to the case or witnesses, and in all court processes directly concerning subjects of His Majesty, their names will, in order to avoid mistakes and misunderstandings, be added in English to the Chinese text of the summons, order or other court process.

ARTICLE 5

1. Except in cases of *flagrante delicto*, subjects of His Majesty may not be arrested, detained or imprisoned except upon an order formally issued by a modern court of justice specifically stating the legal grounds on which, and the offence for which, action is authorised. They shall within twenty-four hours after arrest, exclusive of legal holidays, be brought for hearing before the nearest modern court of justice competent to deal with the case. If there is no competent modern court which can be reached in this space of time, any subject of His Majesty thus arrested will be brought before the nearest competent modern court with the least possible delay.

2. Any subject of His Majesty arrested or otherwise detained shall be permitted to communicate immediately with the nearest British Consular officer, and he is to be afforded all possible facilities to that end. British Consular officers or their representatives shall be permitted to visit at all reasonable times any subject of His Majesty under detention.

3. Subjects of His Majesty under detention or sentence of imprisonment will only be detained or imprisoned in modern detention houses or modern prisons or in other premises suitable for their detention or imprisonment.

4. Subjects of His Majesty serving sentences of imprisonment may be visited by British Consular officers or their representatives at all reasonable times.

5. If any subject of His Majesty charged with any offence, the maximum penalty for which does not exceed imprisonment for six months, makes application before sentence is given for the imposition of a fine instead of imprisonment, the Chinese court will grant such application. In any such case the fine imposed will not exceed a maximum of one thousand yuan (dollars). Similarly, if any subject of His Majesty charged with any offence punishable under the Chinese criminal code by imprisonment not exceeding one year, or fine, makes application before sentence is given for the imposition of a fine instead of imprisonment, the Chinese court will grant such application. In any such case the fine imposed will not exceed a maximum of three thousand yuan (dollars).

6. Except in the case of crimes punishable by death or imprisonment for life, immediate release on bail will, on application, be granted to any subject of His Majesty arrested or detained, unless the court has good reason to believe that the accused may flee from justice after release. The amount of bail will be reasonably proportionate to the offence alleged. Such facilities for release on bail will be granted to appellants until the sentence of the final appellate court is given.

7. Subjects of His Majesty shall not be subject to imprisonment for debt. If, however, it is shown that a debtor is taking action which will render execution on his goods in China impossible, or if execution cannot be safeguarded by any other means, he may be detained in the manner provided for such cases by Chinese law, in which case the provisions of paragraphs 2 and 3 of this Article will apply.

8. Except in such cases as must under the relevant Chinese law be heard in

camera, all hearings of cases involving subjects of His Majesty will be open to the public, and all persons interested in the hearings may be present as spectators.

ARTICLE 6

1. Subjects of His Majesty shall be liable for the payment of such non-discriminatory Chinese taxation only as is actually paid by all Chinese citizens who are liable therefor and is authorised under the legally enacted and duly promulgated laws, ordinances and regulations of the central, provincial and municipal Governments of China.

2. Subjects of His Majesty shall be protected against all taxation without legal sanction and against irregular or discriminatory methods of assessing or levying taxation; and such legal taxation as is properly payable by subjects of His Majesty shall be enforced against them by no other process than that of action in the competent modern Chinese courts of justice.

3. Municipal taxation shall be imposed upon subjects of His Majesty only in accordance with duly authorised municipal regulations sanctioned by the central or provincial Governments of China. The proceeds of such municipal taxation shall in general only be expended on relevant purposes within the municipal area in question.

4. No methods of assessing liability to taxation shall be employed except those prescribed by the duly promulgated laws, ordinances and regulations of China. In cases of disputed assessments, the party concerned shall be entitled to have the amount of his liability determined by the competent modern court of justice in accordance with Chinese law.

5. Tax agreements entered into with subjects of His Majesty in their several capacities as individuals, merchants, firms, partnerships or companies, will be duly observed.

ARTICLE 7

1. The Chinese courts will recognise and, if necessary, secure performance of agreements wherever entered into by subjects of His Majesty with one another or with other foreign nationals or with Chinese citizens for the settlement of civil or commercial controversies by arbitration. The arbitrators selected by the parties in accordance with such agreements may be of any nationality.

2. The arbitration if held in China shall be conducted in accordance with the procedure prescribed by Chinese law.

3. The Chinese courts will not entertain any application or claim, the subject matter of which falls within the scope of such an agreement for arbitration, but will enforce awards made in pursuance of such agreements unless the award is contrary to public order or good morals or is vitiated on other grounds recognised by the general principles of law as understood in modern jurisprudence.

ARTICLE 8

1. All rights in immovable property held by subjects of His Majesty in China shall be recognised as valid and shall remain undisturbed subject to the exercise of the right of eminent domain by the Chinese Government.

2. The property, whether movable or immovable, of subjects of His Majesty in China shall not be expropriated or requisitioned except for reasons of public interest recognised by the law as such, and only after adequate compensation has been paid.

3. Any dispute regarding the amount of compensation to be paid shall be

determined by reference to the competent administrative organ or the competent modern court of justice at the option of the subject of His Majesty concerned in accordance with Chinese law. Where such cases are brought before the modern courts of justice, the provisions of Article 2 and Article 3 of the present Treaty covering the hearings of cases in which subjects of His Majesty are involved as defendants will apply.

ARTICLE 9

The public buildings and private residences of subjects of His Majesty in China and their warehouses and business premises and factories, together with all their accessories, articles and properties, shall be respected, and shall not be subjected to any occupation, search or inspection, and the books and correspondence relating to their commercial transactions shall not be examined except as specifically provided for in non-discriminatory legislation legally enacted and duly promulgated. Except in cases of *flagrante delicto* premises occupied by subjects of His Majesty shall not be forcibly entered except upon a warrant formally issued by a modern court of justice specifically stating the legal grounds on which action is authorised.

ARTICLE 10

Subjects of His Majesty in China shall not be subjected to any form of military service or to any tax or levy imposed as a substitute for military service or to military requisitions or contributions of any kind, nor shall they be liable or compelled to subscribe, directly or indirectly, to any public loan or to any other form of forced levy.

ARTICLE 11

British commercial vessels in Chinese ports or waters will comply with such non-discriminatory and legally enacted and duly promulgated Chinese regulations as are applicable to all commercial vessels. They will not be subjected to any form of commandeering or requisition, nor will they be compelled to carry Chinese troops or Chinese military supplies. Such vessels will not be inspected, searched, boarded or subjected to any kind of restraint by Chinese armed military authority, except in the case of special emergency and only after due notification to and by arrangement with the captain of the vessel or the officer in charge. They may not be boarded by Chinese police, nor may any person be arrested on board any such vessel except upon a warrant formally issued by a modern court of justice specifically stating the legal grounds on which action is authorised. In the absence of such a warrant, Chinese police may only board the vessel in case of special emergency and only after due notification to and by arrangement with the captain of the vessel or the officer in charge. In general, the treatment accorded to British commercial vessels shall be in conformity with that accorded in recognised international practice by maritime nations to vessels of other countries in their ports or territorial waters. The present authority of the Chinese Maritime Customs with regard to British commercial vessels, including authority to search such vessels for the prevention of fraud or smuggling, shall remain unimpaired.

ARTICLE 12

Companies, firms, partnerships and corporations incorporated or organised in accordance with the laws of His Majesty and operating in China shall, provided they comply with the provisions of Chinese law relating to the registration of such

organisations, be entitled to all the rights and privileges enjoyed by subjects of His Majesty under this Treaty, including the rights enjoyed in Chinese courts, whether as plaintiffs, complainants or defendants. Such companies, firms, partnerships or corporations and their branches, agencies or representatives shall not be subject to discriminatory treatment, and as regards national, provincial and municipal taxation shall only be taxed in proportion to the amount of capital actually employed respectively in China, in the province or in the municipality, or in respect of the profits and revenues which they have actually earned respectively in China, in the province or in the municipality. Reciprocally Chinese companies, firms, partnerships or corporations shall enjoy in the United Kingdom, as regards taxation, the right to carry on business and access to the courts, treatment not less favourable than that enjoyed by companies, firms, partnerships or corporations of the most favoured foreign country.

ARTICLE 13

Cases terminated in the British courts in China before the coming into force of this Treaty shall not be reopened, and all final judgments or decisions rendered in such cases shall be executed in any part of China by the Chinese judicial authorities. Cases pending before the British courts in China at the time of the coming into force of this Treaty shall continue until judgment is pronounced in the said courts, the jurisdiction of which shall remain in full force for this purpose; and the Chinese authorities undertake to lend any assistance requested by the British authorities in this connexion. All such pending cases shall be finally disposed of and wound up within a period of six months from the date of the coming into force of this Treaty, upon the expiration of which period any cases still pending shall be dismissed or turned over to the Chinese courts for adjudication. It is understood that after the coming into force of the present Treaty no actions against subjects of His Majesty will be entertained by the competent Chinese courts in respect of acts which took place prior to that date for which they were not liable according to English law, but for which they might be liable according to Chinese law.

ARTICLE 14

1. In all matters of personal status, among which are included all questions relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship and interdiction, and in all matters relating to succession whether by will or on intestacy, and to the distribution and winding up of estates and family law in general, English law will be applied by the Chinese courts as regards subjects of His Majesty in China.

2. All such cases of personal status where only subjects of His Majesty are concerned will, at the option of any of the parties concerned, be dealt with outside the jurisdiction of the Chinese courts.

3. British consular officers shall take temporary possession of the estates in China of deceased subjects of His Majesty. They shall administer the same in all cases where no objection to such administration has been filed by an interested party in writing at a British consular office in China within ninety days after notice of death has been published by the competent consular office.³ Where such objection is filed the provisions of paragraph[s] 1 or 2 will apply as the case may be. In cases of

³ This word should read 'officer'.

intestacy where there is no kin the immovable property of the deceased will be disposed of in accordance with the laws of China.

4. In all the above-mentioned matters the principles of private international law will be likewise applied by the courts of the United Kingdom as regards Chinese citizens without any discrimination against them as compared with the nationals of any other country.

ARTICLE 15

The existing rights enjoyed in China by subjects of His Majesty to travel, reside, establish firms, open branches, acquire or lease property, work and engage in industry or commerce, shall remain unimpaired.

ARTICLE 16

1. Subjects of His Majesty in the area of Greater Shanghai, as shown on the attached map, shall not be amenable to the jurisdiction of the Chinese courts during a period of five years from the date of the coming into force of the present Treaty. It is agreed that discussions will be entered into within the said period of five years on the subject of the arrangements to be made at the end of the said period. In the absence of a settlement of the question of jurisdiction by negotiation and agreement between the High Contracting Parties at any time after the expiry of the said five years, subjects of His Majesty shall not become amenable to the jurisdiction of the Chinese courts until the expiry of ten years from the date of the coming into force of the present Treaty.

2. Subjects of His Majesty in the area at Tientsin shown on the attached map shall not be amenable to the jurisdiction of the Chinese courts until the expiry of five years from the date of the coming into force of the present Treaty.

3. Subjects of His Majesty in the areas above specified shall be liable for the payment of Chinese taxation, as provided in Article 6 of the present Treaty, provided such taxation is equally paid by Chinese citizens and other foreign nationals in the said areas.

ARTICLE 17

In the present Treaty the expression 'Subjects of His Majesty' shall be deemed to include persons under His Majesty's protection.

ARTICLE 18

Subjects of His Majesty shall enjoy in all matters for which this Treaty provides all exemptions from Chinese jurisdiction which may be enjoyed by the nationals of any other country and shall be subjected to no discriminatory treatment in regard to taxation, judicial or any other matters for which this Treaty provides, as compared with the nationals of any other country. Reciprocally Chinese citizens shall enjoy in the United Kingdom in respect of all the above matters treatment not less favourable than that enjoyed by subjects or citizens of the most favoured foreign country.

ARTICLE 19

The provisions in the existing treaties between the High Contracting Parties which are in conflict with the present Treaty are hereby abrogated.

ARTICLE 20

The present Treaty has been drawn up in Chinese and in English pending the preparation of a French text on which the two High Contracting Parties will agree as soon as possible and which will be authoritative in case of divergence between the Chinese and English texts.

ARTICLE 21

1. The present Treaty shall be binding during a period of ten years from the date of its coming into force.

2. Notwithstanding the provisions of paragraph 1 of this Article, the provisions of Article 2 of the Treaty relating to the special chambers to be established by the Chinese Government and those of Article 3 relating to the legal counsellors to be appointed by the Chinese Government shall remain in force for such period as the Chinese Government may deem appropriate not being less than five years.

3. Either of the High Contracting Parties may demand that on the expiration of the said period of ten years the provisions of the Treaty shall be revised. Notice of such a demand shall be given at least twelve months before the expiration of the said period of ten years and negotiations shall thereupon be entered into for the purpose of effecting such revision. If no agreement is reached in regard to such revision within this period, the Treaty shall become null and void.

4. In case neither of the High Contracting Parties shall have given notice at least twelve months before the expiration of the period of ten years of his intention to terminate the Treaty, it shall remain in force subject to twelve months' notice of termination by either party at any time after the expiry of the first ten years.

ARTICLE 22

1. The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods.

2. The ratifications shall be exchanged at Nanking.

3. The present Treaty shall come into force as soon as the ratifications of His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, in respect of each and all the members of the League of Nations⁴ as enumerated in the Preamble of the present Treaty, and of His Excellency the President of the National Government of the Republic of China, shall have been exchanged.

ANNEXES

A.—Declaration by Minister for Foreign Affairs

With reference to the Treaty concluded between us to-day, I have the honour to declare on behalf of my Government that the Chinese courts will ensure to the persons and property of subjects of His Majesty due protection in accordance with international law and the general practice of nations.

B.—Declaration by Minister for Foreign Affairs

With reference to the Treaty concluded between us to-day, I have the honour to declare on behalf of my Government that the chief judge of any of the special chambers provided in Article 2 of the said Treaty shall be the president of the court to which the chamber belongs. Other judges of the special chamber as well as its

⁴ The words 'League of Nations' should read 'British Commonwealth of Nations'.

procurators shall be selected from among legal scholars with thorough training and practical experience and with a broad knowledge of the general concepts of modern jurisprudence. Their names, ranks, and salaries will be made known to the public and they will not be removed from office without cause.

C.—Declaration by Minister for Foreign Affairs

With reference to the Treaty concluded between us to-day, I have the honour to declare on behalf of my Government that the legal counsellors referred to in Article 3 of the above-mentioned Treaty will be engaged and employed by the Chinese Government under contracts specifying in detail the duration and the terms of their service, including in the case of each foreign legal counsellor total emoluments of not less than £3,000 a year, to be paid in quarterly instalments, the said quarterly instalments to be deposited in such bank or banks as the legal counsellor concerned may indicate six months ahead of the time when such instalments fall due.

I have further the honour to declare that among the legal counsellors above referred to there will also be included one legal counsellor of Chinese nationality to be similarly selected and appointed from among Chinese legal experts possessing the same training, qualifications, and experience, and that this Chinese legal counsellor will have the same functions as the other legal counsellors.

D.—Exchange of Notes

His Britannic Majesty's Minister to the Minister for Foreign Affairs

Sir,

With reference to Article 8 of the Treaty signed between us to-day, I have the honour to request Your Excellency's confirmation of my understanding as follows:—

All legal Chinese land transfer fees leviable under regular Chinese legislation as provided in Article 6 of the said Treaty, where properly payable under such legislation, will be paid by subjects of His Majesty on account of land transactions effected after the date of the signature of the said Treaty. But no demands will be made by the Chinese authorities for the payment of such land transfer fees on transfers of land to or from subjects of His Majesty prior to the date of the signature of the said Treaty and rights in immovable property held by subjects of His Majesty shall not be called in question on account of non-payment of such transfer fees in the past. All rights in immovable property now held by subjects of His Majesty in China shall not be questioned unless they are invalidated on legal grounds as the result of a decision rendered by a modern Chinese court of justice, but subjects of His Majesty will comply with the laws of China in regard to such property. In reaching their decisions in such cases the Chinese courts will take into consideration the treaty provisions and laws and the customs and practices in various parts of China which existed at the time when the property rights were acquired. The existing rights of subjects of His Majesty to acquire, hold, and freely dispose of and transfer their rights in immovable property in accordance with the laws of China will remain unimpaired.

Minister for Foreign Affairs to His Britannic Majesty's Minister

Sir,

I have the honour to acknowledge the receipt of Your Excellency's note of to-day's date which reads as follows:—

‘(Quote note in full)’

I have the honour to confirm your Excellency’s understanding as set forth above as correct.

E.—Exchange of Notes

His Majesty’s Minister to Minister for Foreign Affairs

Sir,

With reference to Article 16 of the Treaty concluded between us to-day, I have the honour to inform Your Excellency that His Majesty’s Government in the United Kingdom are prepared to support immediate negotiations for a solution of the questions of the extra-Settlement roads at Shanghai subject to satisfactory arrangements being made in regard to the policing and maintenance of the said roads and the payment of rates and provision of municipal services in the areas in question.

I have further the honour to declare that His Majesty’s Government in the United Kingdom are prepared to enter immediately into negotiations for the rendition of the British Concession at Canton on the understanding that all public and private property rights and interests will be duly safeguarded in the terms of such rendition.

I have the honour to request Your Excellency’s confirmation of my understanding that the jurisdiction of the British courts in the areas specified in Article 16 above referred to will continue in force pending the time when subjects of His Majesty in the said areas become amenable to the jurisdiction of the Chinese courts; and further that under the provisions of Article 18 of the Treaty subjects of His Majesty resident in areas in China where the nationals of any country may be exempt from Chinese jurisdiction will enjoy all such exemptions from Chinese jurisdiction as may be enjoyed by the nationals of any country.

Minister for Foreign Affairs to His Britannic Majesty’s Minister

Sir,

I have the honour to acknowledge the receipt of Your Excellency’s note of to-day’s date which reads as follows:—

‘(Quote note in full)’

I have the honour to take due note of Your Excellency’s declarations and to confirm your understanding quoted above as correct.

F.—Note from Minister for Foreign Affairs to His Britannic Majesty’s Minister

Sir,

With reference to the Treaty concluded between us to-day, I have the honour, in reply to Your Excellency’s enquiry, to state that the work of compiling the modern Chinese codes and laws has now been completed and that a copy of the Ssu Fa Li Kuei of the National Government issued by the Judicial Yuan containing the texts of all the important codes, laws, ordinances and regulations promulgated down to the present time, a revised edition of which is in course of preparation, will be transmitted to Your Excellency as soon as possible. I have further the honour to inform Your Excellency that, with a view to enabling foreign nationals in China to familiarise themselves with Chinese laws and judicial procedure, translations of the principal Chinese codes, laws, ordinances and regulations are being made and will be placed on sale, such translations being checked by and

prepared under the ægis of the competent department of the Chinese Government. It is, of course, understood that Chinese is and remains the only authoritative text of Chinese codes, laws, ordinances and regulations.

G.—Note from Minister for Foreign Affairs to His Britannic Majesty's Minister

Sir,

With reference to the Treaty concluded between us to-day I have the honour to assure Your Excellency as follows:—

Where subjects of His Majesty are involved in minor incidents or offences such as infractions of municipal regulations, motor car cases, and so on, the Chinese police will, as far as may be practicable, assure themselves of the identity of the individuals concerned by taking their names and addresses and will not arrest them or detain them in police stations.

It is understood that the liability of a subject of His Majesty standing bail for a party involved in court proceedings will in all cases be limited to the amount of actual bail fixed by the court.

The qualifications of British professional men, such as doctors, chartered accountants, architects and engineers, will, if necessary, on production of proper evidence including registration with the Chinese Government where such registration is required by Chinese law, be recognised by the Chinese courts.

In connexion with legislation providing for the examination of commercial books and correspondence, it is understood that in the case of British firms the certificates of duly qualified chartered accountants will be accepted with a view to dispensing, as far as may be practicable, with such examination.

H.—Note from Minister for Foreign Affairs to His Britannic Majesty's Minister
(Unpublished)

My dear Sir Miles Lampson,

With reference to Article 7 of the Treaty concluded between us to-day, I have the honour to confirm Your Excellency's understanding that the Chinese Mediation Law (Chinese characters) of the 20th January, 1930, has no application to arbitration agreements of the kind contemplated in the said article.

I.—Agreed Minute of Interview between the Minister for Foreign Affairs and His Majesty's Minister with reference to the Treaty concerning the Readjustment of Matters relating to Jurisdiction over Subjects of His Majesty in China.

(Unpublished)

Referring to the Declaration attached to the Treaty to the effect that the Chinese courts will ensure to the persons and property of subjects of His Majesty due protection in accordance with international law and the general practice of nations, Dr. Wang assured Sir Miles Lampson that it was to be understood that the said Chinese courts assuming jurisdiction over subjects of His Majesty would be strictly immune from all external interference by any non-judicial authority.

2. Referring to the arrangements provided in the Treaty for the employment by the Chinese Government of foreign legal counsellors, Dr. Wang assured Sir Miles Lampson that at least one of the said legal counsellors would be of British nationality.

3. Sir Miles Lampson, referring to the matter of the registration of British lawyers, enquired whether he was correct in understanding that it was not the

intention of the Chinese Government to require that duly qualified British lawyers appearing on behalf of subjects of His Majesty in the Chinese courts should have a knowledge of the Chinese language or possess diplomas of Chinese law schools. Dr. Wang replied that the above understanding was correct.

4. Sir Miles Lampson, referring to Article 10 of the Treaty, assured Dr. Wang that it was to be understood that Chinese citizens in the United Kingdom would enjoy in respect of the matters referred to in the said article the same exemptions as were enjoyed by the subjects or citizens of any other foreign country.

5. Dr. Wang informed Sir Miles Lampson, with reference to clause 5 of Article 5 of the Treaty, that it was of course to be understood that the courts would not intentionally discourage such applications by unnecessarily imposing the maximum fine.

6. Referring to clause 2 of Article 14 of the Treaty, Dr. Wang assured Sir Miles Lampson that it was to be understood that where such cases were dealt with outside the jurisdiction of the Chinese courts they would be dealt with by the competent courts of His Majesty.

No. 459

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 195 Telegraphic [F 3299/34/10]

FOREIGN OFFICE, *June 8, 1931, 5.50 p.m.*

Your telegram No. 259.¹

I am stating today in answer to a question in the House of Commons that negotiations have reached a point which enables them to be reported to respective Governments, and that I hope to be able to make a statement shortly.²

I shall be obliged in the absence of convincing reason to the contrary to make a statement very soon on results of the negotiations, and if Chinese object they should furnish the reason. Their own tactics, e.g. issue of mandate of May 5 [4] have inevitably created a more urgent demand for information. Please telegraph as soon as possible how much Dr. Wang would concur in my saying and any objections he may have to a complete if summary statement.

¹ No. 457.

² See Parl. Deb., 5th Ser., H. of C., vol. 253, col. 600.

No. 460

Sir M. Lampson (Peking) to Mr. A. Henderson (Received July 24)

No. 806 [F 4057/34/10]

PEKING, *June 8, 1931*

Sir,

Résumé of Position at Beginning of March. With reference to my despatch dated Nanking, the 6th June,¹ I have the honour to submit the following report on the negotiations which I have been conducting during the past

¹ No. 458.

three months on the subject of the adjustment of matters relating to jurisdiction over British subjects in China. The position when I arrived in Nanking on the 1st March for the initiation of detailed negotiations was briefly this: Following on the exchange of formal correspondence in 1929 and the opening of preliminary discussions in the early part of the year 1930, the proposals of His Majesty's Government for the gradual abolition of British extraterritorial rights in China had been communicated to the Chinese Government on the 11th September, 1930.² To these proposals the Chinese Government had replied by putting in, in turn, on the 1st December, a counter-draft, which not only omitted the four major safeguards contained in the British draft (evocation, foreign co-judges, reservation of criminal jurisdiction and exclusion of certain areas), but also deleted or emasculated the greater part of the more detailed safeguards concerning matters such as guarantees in regard to taxation, the operation of the Chinese courts, limitation of police jurisdiction, arrest, domiciliary visits, rights in immovable property, expropriation, immunity of shipping, arbitration, rights of business organisation[s], discrimination, and so on. A copy of this Chinese counter-draft had been immediately forwarded to His Majesty's Government, and my detailed comments had followed on the 10th December.³ At the same time I explained to the Minister for Foreign Affairs that these papers would require careful consideration by His Majesty's Government, whose instructions could hardly reach me before about the end of February, when I undertook to be again in Nanking with a view to resuming the negotiations if it were possible to do so.

2. *Chinese Memorandum, December 17, 1930.* Nevertheless, on the 17th December, the Minister for Foreign Affairs addressed to me, as well as to the representatives of the other Powers concerned, a communication expressing the regret and disappointment of the Chinese people at the delay in concluding the negotiations, and the earnest hope that a satisfactory solution would be reached by the end of February, ending with the veiled threat that the Chinese Government still believed it would be possible to settle the matter by negotiation, and that it would not be necessary for them to take a different course of action. It was understood that this move was due to the desire of the Chinese Government, for internal political reasons, to reach a settlement, or to be able to show that a settlement had in principle been reached, before the People's Convention fixed for May 1931. To this communication I had, in due course, replied with your authority, reminding the Minister for Foreign Affairs that the Chinese counter-proposals to our draft had only been received on the 1st December, and that they were even then on their way to London for consideration by His Majesty's Government. His Majesty's Government did not, therefore, understand the necessity for such a message from the Minister for Foreign Affairs, and hesitated to believe that it cloaked any intention on the part of the Chinese Government to prejudice the normal course of the negotiations by precipitate action.⁴

3. *American Action on Chinese Counter-proposals.* The Chinese counter-

² See No. 320.

³ See Nos. 334 and 336.

⁴ See No. 337, note 1 and No. 345.

proposals and my comments and request for instructions thereon had reached the Foreign Office early in January 1931, and the next few weeks were occupied by their study in London and by consultation with the American Government. The latter had, in the meantime, been pursuing the same zig-zag course which they had followed from the outset of their negotiations with the Chinese Government on this question. It will be recalled that the State Department had just a year before submitted proposals to the Chinese Minister at Washington omitting any mention of two of the major safeguards, namely, the reservation of criminal jurisdiction and the employment of foreign co-judges, on which we had up to that time proposed to insist, and that soon after, when His Majesty's Government, seeing their hand forced in this way, had suggested the desirability of seeking a bargain by offering to concede criminal jurisdiction, the State Department, professing a grievance at what they termed our surrender, had retraced their steps and announced their decision to stand out on these as on the other major points; all of which had accordingly been embodied in the British and American proposals presented to the Chinese Government in the autumn of 1930. The American Government now, as the result of their study of the Chinese counter-proposals submitted in December, formulated and communicated to His Majesty's Government in January a new draft,⁵ the principal features of which were the dropping of evocation and foreign co-judges. Following, it seems, on representations made from London, the State Department subsequently withdrew this draft; and on the 7th February they submitted instead to the Chinese Minister in Washington a statement intended to indicate the nature of the concessions they were willing to make. In this document no mention was made of the question of foreign co-judges, but evocation was definitely abandoned. To this statement the Chinese Government replied on the 20th February expressing their appreciation of the concessions offered, with special reference to the abandonment of evocation, but they repeated their inability to accept any of the three remaining major safeguards, namely, co-judges, reservation of criminal jurisdiction, and excluded areas, and requested a definite statement from the American Government as to their attitude towards these major issues before seeking to continue the negotiations on other points. The State Department thereupon took no further action for the moment and intimated to us that they would await further developments and see what came of my impending negotiations at Nanking. This was satisfactory enough, but unfortunately the only result of these American negotiations had been to abandon evocation, in itself at least a useful pawn in the negotiations, without getting, or even seeking to bargain for, anything in return. It was, in fact, obvious that no other results than alternate deadlock and surrender could ensue from these attempts to negotiate with the Chinese Minister in Washington by means of formal written proposal and counter-proposal, instead of bargaining in the usual Chinese way with the National Government itself at Nanking.

4. *Arrival at Nanking early in March.* For the first few days of my stay in

⁵ See No. 351, note 2.

Nanking, from the 1st March to the 7th March, I was awaiting your instructions, which, I was already aware, were to be expected at the beginning of the month. Apart from the transaction of other business with the Minister for Foreign Affairs, I took the opportunity to make some preliminary soundings of the members of the Chinese Government, to whom I intimated that, anxious as we were to reach a settlement if we could, it was as a matter of fact the Chinese who were seeking something from us and who would be the greater losers if we failed to reach an agreement. I also had the opportunity of full and frank discussion with my American colleague, who had purposely proceeded to Nanking to meet me and who had been instructed by his Government to afford me all possible 'moral support' in the negotiations. Mr. Johnson also explained to me that, while the State Department still insisted on keeping the American negotiations in their hands at Washington, there was at least a possibility, if not, indeed, a probability, of their being permitted to 'slide over' into his hands at Nanking.

5. *Receipt of Instructions on March 7.* On the 7th March I received your instructions,⁶ which were, in brief, to the effect that we should progressively abandon evocation, the reservation of criminal jurisdiction (subject to the American Government agreeing to adopt the same course) and foreign co-judges, in return for the retention of the other safeguards which were regarded by His Majesty's Government as really vital, namely, the exclusion of certain treaty port areas, with special reference in the last resort to the International Settlement at Shanghai, adequate arrangements in regard to the functions of the legal advisers, and satisfactory guarantees and assurances in regard to taxation, arrest, detention, bail, personal status matters, arbitration, titles to real property, expropriation, domiciliary visits, immunity of shipping, rights of business organisations, discrimination, and other minor points. It was further suggested that, pending consideration of the question of criminal jurisdiction by the United States Government, I might open the negotiations by stating that His Majesty's Government were prepared to make concessions in order to arrive at an agreed settlement, but that in order to carry public opinion in Great Britain with them it was essential that the Chinese Government should be prepared to give complete satisfaction in regard to certain vital safeguards concerning, *inter alia*, the functions of the legal advisers, methods of levying, assessing and enforcing taxation, and so on.

6. *Opening of Negotiations on March 8.* I formally opened the negotiations with the Minister for Foreign Affairs on Sunday, the 8th March, being as usual accompanied by Mr. Teichman, Chinese Counsellor to His Majesty's Legation, while Dr. Wang was assisted by Mr. Hsu Mo, head of the European and American Department of the Waichiaopu. Instead of acting at once on the above suggestion, which seemed to me to involve the introduction of the question of major concessions rather too abruptly and at too early a stage, I thought it better to skirmish at first on the ground of the four main principles, from which we had not as yet in theory in any way retreated. I was the more inclined to take this line because, when sounding informally the

⁶ See Nos. 362 and 358.

Minister for Foreign Affairs before the receipt of my instructions, I had offered him the alternative of discussing main principles at the outset or of seeking to find common ground on less contentious points of minor detail first, and he had expressed a very decided preference for, if, indeed, he was not going to insist on, the former method of approach.

7. *Discussion of Four Major Points.* I, therefore, opened the discussion by formally examining the four main principles, namely, evocation, foreign co-judges, criminal jurisdiction and excluded areas. I purposely refrained from making concessions on any of these (though aware that the value of the first—evocation—as a bargaining pawn had been impaired, if not destroyed, by the action of the American Government in formally abandoning it). Dr. Wang, on his side, also confined himself to explaining why the Chinese Government could not possibly meet us on any of these major points. The only one on which there was the least give and take in this first discussion was that of the foreign co-judges, in regard to which, while insisting that adequate arrangements in this respect were a cardinal point in our attitude, I suggested that he should explore the possibilities of meeting us by strengthening the position of the legal counsellors in other ways. Having reached this point of apparent deadlock, I referred once more to the alternative method of approach and I mentioned the many so-called minor safeguards to which His Majesty's Government attached the greatest importance; and I thus gradually developed the argument that, if we secured complete satisfaction in regard to these legal safeguards, it might well influence our attitude towards the whole settlement, including the question of criminal jurisdiction.

8. *Minister for Foreign Affairs agrees to Discussion of Legal Safeguards by Experts.* It was not easy to manœuvre Dr. Wang on to this new ground, since the Chinese plan of campaign was obviously to force the issue over the four main principles, when, having driven us from our position on these major points, they would be able to deal much more easily with our demands in connexion with the other legal safeguards. It was equally obvious that our tactics involved just the opposite manœuvre. Eventually, however, Dr. Wang concurred, with some reluctance, in our trying this new line, and it was agreed, on his suggestion, that as the next step our respective experts, Mr. Teichman and Mr. Hsu Mo, should meet and see how far they could work out from the British and Chinese proposals, which were at present poles apart, an agreed composite draft in regard to the legal safeguards without touching for the moment on the four main principles in dispute. It was to this tactical advantage gained at the outset that I ascribe the comparatively smooth and successful course of the subsequent negotiations; that is to say that we were able to build on a gradually broadening basis of common ground in regard to the less contentious points from the bottom up, instead of dealing with the problem the other way round and being forced to give way at the outset on the major issues. There was, however, evident reluctance on the Chinese side to be manœuvred on to this new course and an interval of some days ensued before Mr. Hsu Mo invited Mr. Teichman to meet him and open detailed negotiations.

9. *Negotiations opened by Japanese, French, Dutch and Norwegian Representatives.* In the meanwhile, a general drift had set in amongst the other interested Powers in following the lead of the British and American Governments. On the 12th March the Japanese Chargé d'Affaires presented the Japanese proposals, which were a mere outline of what Japan was prepared to do along the lines of progressive abolition; in general the Japanese plan was the same as that communicated to His Majesty's Government by the Japanese Government a year ago and there was every indication that Japan proposed as usual to proceed very slowly and cautiously in the negotiations, if indeed any serious attempt was to be made to negotiate at all. The Chinese, on the other hand, continued to maintain the theory that Japan's extraterritorial rights had long lapsed with the Japanese treaty and that it only remained for them to conclude, as far as Japan was concerned, a commercial treaty settlement. About the same time, the French Minister put in his proposals, which were along the lines of the British and American plans of the previous autumn, omitting, however, evocation and some of the detail in connexion with the legal safeguards. Apart from Great Britain, the United States and France, and excluding Brazil, with whom no negotiations appeared to be contemplated, there remained of the Powers still with their extraterritorial rights theoretically unimpaired only Norway and Holland; and it now transpired that both the Norwegian and Netherlands representatives in China were seeking a settlement along the lines of the Belgian, Portuguese, Spanish, Danish and Italian precedents, that is to say, abandoning more or less unconditionally their extraterritorial rights as soon as the other Powers had done so.

10. *Detailed Negotiations regarding Functions of Legal Counsellors and other Safeguards.* The detailed negotiations regarding legal safeguards between Mr. Hsu Mo and Mr. Teichman opened on the 12th March, and at the same time I was able to put privately before the Minister for Foreign Affairs alternative proposals for strengthening the position and functions of the foreign legal counsellors to be attached to the special chambers hearing foreign cases. There had been two points in our original proposals in regard to these legal counsellors to which the Chinese Government had taken the strongest exception, firstly, investing them with the powers of co-judges, carefully wrapped up though this had been in our draft, and, secondly, their selection from a panel furnished by The Hague Court. As regards the first point, I put forward, with the ready consent of my American colleague, the alternative proposals prepared by the State Department in their redraft (which had never been actually presented to the Chinese Government—see paragraph 3 above), providing that before judgments were given the legal counsellors should have the opportunity of presenting their observations, which would, if necessary, be referred to the Ministry of Justice. As regards the second point, I was able, taking advantage of a hint dropped by the Minister for Foreign Affairs, to make suggestions for safeguarding and strengthening the position of the legal counsellors by means of a declaration on the part of the Chinese Government specifying the terms of service in

regard to salaries, &c., on which they would be engaged and employed under definite contracts.

11. *Progress made and agreed Texts of March 14.* As has not infrequently happened before in our recent negotiations with the National Government, we now made comparatively rapid progress on certain points after weeks and months of procrastination and delay, and I took the fullest advantage of the opportunity to press forward as far as possible before coming to a stop. On the 14th March I was able to report to you by telegraph the progress made and to submit for your approval the texts of a number of articles which had been tentatively agreed upon between the Minister for Foreign Affairs and myself, without commitment or prejudice to the three remaining major questions of principle, namely, evocation, criminal jurisdiction and excluded areas.

12. *Meeting with Joint Committee at Shanghai on March 16.* Having reached this stage and submitted to you the results so far reached in the negotiations as well as my proposals for dealing with the outstanding points, I thought it well, while awaiting your instructions, to suspend the discussions for a few days. I therefore proceeded to Shanghai, where I took the opportunity on the 16th March of explaining to the Joint Committee of the British Chamber of Commerce and China Association the course of and the position reached in the negotiations.

13. *American Negotiations to be transferred from Washington to Nanking.* I returned to Nanking on the 23rd March and found that there had been during my absence favourable developments on the American side resulting, as it seemed, in the transfer of the State Department's negotiations to the hands of my United States colleague at Nanking. The Chinese Minister at Washington had been so informed on the 11th March in a memorandum, a copy of which was handed to the Minister for Foreign Affairs at Nanking by Mr. Johnson on the 19th March. On receiving this document, Dr. Wang, while intimating his readiness to discuss legal safeguards with the American Minister, repeated in the most emphatic terms the unalterable determination of the Chinese Government not to give way on the questions of criminal jurisdiction, foreign co-judges and excluded areas. Dr. Wang had also stated categorically to Mr. Johnson on this occasion that China had never accepted the principle of gradual abolition of extraterritoriality, even though she might, by entering into these negotiations, have tacitly implied as much.

14. *State Department's Instructions to American Minister.* In giving me the above information my American colleague also communicated to me the tenor of his instructions, which were to the general effect that the State Department were prepared to follow the same lines as those laid down for me by His Majesty's Government, including the offer at the right moment of criminal jurisdiction, and that within the margin of his instructions Mr. Johnson should proceed with his negotiations in close association, but not in alliance, with myself. These instructions were wisely interpreted by my American colleague as meaning that he should for the moment remain in the background, closely following the course of my negotiations, full information

concerning which I communicated to him as developments occurred. My French colleague arrived in the capital a few days later, and the British, American, French and Japanese negotiations were thus now all, in theory, proceeding simultaneously at Nanking. In actual fact, however, my colleagues concerned were at this time for the most part content to leave the actual work in my hands while they awaited the outcome of my negotiations.

15. *Negotiations resumed on March 25.* I resumed my discussions with the Minister for Foreign Affairs on the 25th March, your instructions having reached me a day or two before. I followed the same course as before, and, after I had communicated to Dr. Wang the substance of your comments on the work we had so far accomplished, we again referred to a sub-committee of our respective experts, Mr. Teichman and Mr. Hsu Mo, the task of seeking common ground in regard to the various additions and amendments which you desired to see incorporated in the texts of the Articles so far dealt with. I also took the opportunity of introducing some new material to be worked on, including the text of our draft of an article limiting the transfer of jurisdiction to the modern law courts, except for certain classes of minor cases to be entrusted to the police courts, all being still subject to a general reservation of criminal jurisdiction.

16. *Progress made and agreed Texts of March 27.* Once again we were able to make good progress, and, following on the detailed discussions between Mr. Hsu Mo and Mr. Teichman which took place on the 26th March, and a further meeting between Dr. Wang and myself on the 27th March, I was in a position to submit to you by telegraph on the evening of the same day, just under three weeks from the opening of negotiations on the 8th March, agreed texts of articles and attached documents covering the following subjects:—

Transfer of jurisdiction only to the modern law courts and limitation of police jurisdiction.

Appearance in court of foreign lawyers and arrangements for interpretation.

Establishment of special chambers to take jurisdiction over British subjects.

Functions and powers of foreign legal counsellors to be attached to the special chambers.

Guarantees in regard to taxation.

Provision for arbitration.

Rights in immovable property.

Immunity of premises.

Assurances in regard to military requisitions and forced loans.

Rights of companies.

Arrangements in regard to pending cases.

Non-discriminatory treatment.

British-protected persons.

17. *Points still Outstanding, March 27.* Agreement having been reached, *ad referendum* to our respective Governments, on the above points, there still

remained outstanding, apart from evocation and criminal jurisdiction, which I was prepared to throw in at the right moment, the following subjects:—

- Safeguards in connexion with arrests, imprisonment and trial;
- Personal status cases;
- Immunities for shipping;
- Reserved areas;
- Rights of residence;
- Abrogation of conflicting clauses in existing treaties;
- Publication and translation of codes;
- Authoritative text;
- Duration; and
- Ratification.

Progress in reaching agreement on a number of the legal safeguards had been unexpectedly good, thanks largely to the tactical advantage gained at the outset by which the detailed negotiations concerning these legal safeguards had proceeded without prejudice to the major issues, and on the general understanding that the more complete the satisfaction the Chinese were able to give us on these points the more likely were His Majesty's Government to be influenced in their attitude towards the major issues. Of these main questions, the foreign co-judges had by now been 'traded in' to secure satisfactory arrangements in regard to the legal counsellors; and evocation, though still theoretically in hand as far as we were concerned, had, in fact, been jettisoned before our negotiations began by the Americans and the French. There remained, therefore, only criminal jurisdiction and excluded areas, and it had throughout been my intention at the psychological moment to seek to use the former as a lever by offering to surrender it in return for the latter. Of the other important outstanding points, we had so far made no progress in regard to personal status cases and immunities for shipping. As regards the former, I was still holding out for complete reservation, while the Chinese were likewise adhering to their original proposal that in such cases the Chinese courts would apply British law. As regards the latter, the Chinese having taken strong exception to our draft, and more especially to the implication, which they professed to read into it, of the continuance of existing rights of cabotage, I was awaiting your instructions, as, in view of the importance of this article, I was not prepared to discuss any modifications without your authority. The remaining outstanding points had not yet been seriously discussed.

18. *Suspension of Negotiations over Easter: Offer of Criminal Jurisdiction for Reserved Areas.* At this point, as Easter was approaching and the Minister for Foreign Affairs was proceeding to Shanghai for a few days at the beginning of April to welcome the King of Siam on his way through, it seemed better, while awaiting your further instructions, to suspend the negotiations for a brief period to enable both Governments to take stock of the situation. I accordingly arranged to return to Peking over the Easter holidays. I decided, however, that, before leaving, the time had come to put my cards on the table

in regard to our attitude towards criminal jurisdiction and excluded areas, and I accordingly sought a private interview alone with the Minister for Foreign Affairs on the 30th March, when, in the course of a general conversation on a variety of subjects, I broached the question of extraterritoriality. Having suitably broken the ice, I led up to my point, and put it to him that, if I could induce His Majesty's Government to give up criminal jurisdiction (subject, of course, to the necessary legal safeguards in regard to arrest, imprisonment, trial, and so on), would he agree to the four excluded areas we required? Dr. Wang replied by saying that he would be equally frank with me. Not only had the Central Political Council definitely decided that China could not give way on any of the four major issues, but any compromise with us over the matter of reserved areas would weaken their position in dealing with similar demands from other Powers, whose policy, unlike ours, which he and his Government fully realised was a *bona fide* trade one and nothing more, had ulterior political objectives in view. Finally, however, he offered to consider, for submission to his Government, the reservation of the International Settlement at Shanghai, but of that area alone. This, I insisted, was not enough, and finally we left it for the time being at that, namely, that I had offered to recommend to His Majesty's Government the abandonment of criminal jurisdiction in return for our four reserved areas—Shanghai, Tientsin, Hankow and Canton—and that he on his side had offered me Shanghai alone for an as yet unstated period, which I was unable to accept.

19. *Conversation with Admiral Chen on April 1.* Three days later, on the 2nd April, I left Nanking to return to Peking over Easter. On the eve of my departure I had, however, the opportunity of further private discussions with members of the Chinese Government—and it may be noted that much of the work throughout these negotiations has been accomplished and the results obtained in such informal conversations. On the afternoon of the 1st April I received a visit from Admiral Chen, Vice-Minister of Marine and close confidant of President Chiang Kai-shek, who had just taken me for a cruise in one of his warships to the Chusan Islands and Nimrod Sound. I had already, during that cruise, taking advantage of our very friendly and intimate personal relations, discussed privately and very frankly with the Admiral the problem of extraterritoriality, and impressed on him the necessity of China moderating her demands if we were to reach a settlement of this difficult and complicated question, with special reference to the excluded areas. The Admiral now told me that he had reported what I had said to the President, who had fully understood my point. In view of the opening thus afforded me, and knowing in what close contact Admiral Chen was with General Chiang Kai-shek, the opportunity seemed too good to lose, and I decided to adopt the unusual course of taking the Admiral further into my confidence, in the hope that he might thus serve as a channel of approach to the President. I accordingly explained in some detail and very confidentially the difficulties I was encountering with the Minister for Foreign Affairs, on account of his unyielding attitude towards the questions of the excluded areas,

giving the substance of my conversation with Dr. Wang of two days before. I emphasised the fact that I had practically gone so far as to offer to meet the Chinese Government over three out of the four major points, namely, foreign co-judges, evocation and criminal jurisdiction, if they would meet us over the fourth point, that of the excluded areas. I then proceeded to show my hand still further by intimating that, while Shanghai, and also Tientsin, were obviously outside the possibility of any discussion, there might be room for compromise in regard to Canton and Hankow. I concluded with a hint that the Admiral might possibly feel disposed to put in a word in the proper quarter with a view to smoothing things over between our two countries by explaining the reasonableness of our minimum requirements. The Admiral listened sympathetically, and I received the impression that what I had said might be repeated to the President.

20. *Conversation with Minister for Foreign Affairs on April 1.* On the evening of the same day, when taking leave of the Minister for Foreign Affairs and arranging the final details of the exchange of letters regarding the activities of the Kuomintang in Malaya,⁷ I took the opportunity of enquiring of Dr. Wang whether he had further considered our conversation of two days before and was now prepared to make any advance on his offer (in respect of the excluded areas) of Shanghai alone. He replied that it was quite impossible to offer more, and that even that offer, which had yet to be approved by the Central Political Council, was dependent on such exclusion being purely temporary. I reminded him that our offer, in respect of the surrender of criminal jurisdiction, was also strictly conditional on our being met over the excluded areas, and I urged him to weigh most carefully the responsibility which he would incur if through an unreasonably unyielding attitude towards this latter point he deliberately threw away this opportunity of concluding a settlement so favourable to his country.

21. *Conversation with Dr. Wang Chung-hui on April 2.* Lastly, on the day of my departure I went to see Dr. Wang Chung-hui, who, in the course of a frank discussion, showed a slightly more accommodating attitude. We pressed one another hard, and finally he reduced our points of difference to two, the excluded areas and the duration of the special arrangements to be set up under the proposed treaty (which I had so far insisted must last, like the treaty itself, for at least ten years); if we would reduce our demands on these two points, the Chinese Government would meet us, and he concluded by throwing out a hint that the rendition of Shameen might facilitate a settlement, a suggestion which I had already recommended for your consideration more than a year before (see paragraph 6 of my telegram No. 85 from Nanking of the 16th February, 1930⁸). Throughout our conversation Dr. Wang

⁷ Not printed. These letters of April 3 embodied an understanding that 'if the Chinese Government will declare that it does not countenance any interference by Kuomintang in the domestic affairs of Malaya respecting establishment of party offices (*Tangpu*) there, the Malaya Government will amend their local legislation making it clear that Kuomintang of China is not as such an illegal society in Malaya'.

⁸ No. 227.

Chung-hui made no secret of his extreme anxiety to reach a settlement before the 5th May, the date fixed for the convocation of the People's Convention.

22. *Representations made by and Reply returned to Chinese Minister in London.* On my arrival in Peking on the 4th April, I received your telegrams informing me of the representations made by the Chinese Minister in London and of the memorandum handed to Mr. Sze on the 2nd [1st] April stating the attitude of His Majesty's Government;⁹ namely, that, if the safeguards considered essential by them were accepted by the Chinese Government, they would almost certainly be prepared to surrender, not only the rights of evocation and foreign co-judges, but also criminal jurisdiction; that, as regards the outstanding major safeguard, the exclusion of Shanghai, Tientsin, Canton and Hankow from the new arrangement, these areas presented special problems both on account of the size and complexity of the interests which had grown up in them and of the fact that other Powers besides the British Empire were intimately concerned; that His Majesty's Government trusted that the Chinese Government would realise the reasonable nature of the attitude which they had adopted and the necessity for safeguards which they considered essential in this most important and difficult problem; that His Majesty's Government attached great importance to an early termination of the negotiations and the conclusion of a satisfactory agreement; and that they would deplore it if the Chinese Government were to take up an attitude which would prevent such a satisfactory outcome. This step, while it to all intents and purposes settled the matter of the surrender of criminal jurisdiction, was, I think, timely and helpful; and I was able later to make good use of your memorandum.

23. *Minister for Foreign Affairs' Declaration of April 10.* A week later, on the 10th April, the Minister for Foreign Affairs made a speech to the press for publication on the subject of the negotiations. Whether this statement was to be regarded as an exhortation to the Powers concerned to speed up the negotiations with a view to arriving at an amicable settlement, or as a threat of what would happen if China's wishes were not met, or merely as a piece of internal political flag-wagging, it bore a close family resemblance to similar pronouncements from the same quarter during the past year or two. It was admitted that good progress had been made in the negotiations, especially with Great Britain. Unfortunately, certain vital points were still outstanding, disagreement over which might render the negotiations abortive. The Chinese Government and the Chinese people would, however, brook no further delay. Sun Yat-sen had stated in his deathbed behest that the convocation of the People's Convention and the abolition of the Unequal Treaties should take place as soon as possible. The People's Convention was to meet on the 5th May. Consequently, both Government and people were asking whether the Unequal Treaties would be abolished by then. It was the earnest hope of the Chinese Government and people that Great Britain and the United States, as well as the other Powers concerned,

⁹ See Nos. 384 and 385.

would 'courageously seize fleeting time by the forelock and co-operate with the Nationalist Government in consummating the abolition of extraterritoriality, the bulwark of the Unequal Treaties'. After more in the same strain, Dr. Wang concluded with the statement that, unless the solution desired by China was completely in sight, he and his colleagues would be constrained 'to declare the present negotiations with the Powers concerned as deadlocked'.

24. *Attitude of Chinese Government in Linking Extraterritoriality with People's Convention fixed for May 5.* Whatever the real meaning of this manœuvre may have been, it was becoming increasingly evident that the Chinese Government (or at any rate Dr. Wang himself), had, for better or for worse, linked up their fortunes and their future with the abolition of extraterritoriality, and that they believed or professed to believe that it was essential to them to be able to present themselves before the People's Convention on the 5th May with something definite to show in that connexion. Already, once before, they had played to the popular gallery by unilaterally declaring extraterritoriality at an end on the 1st January, 1930. This declaration had remained a mere paper gesture, a position they had explained by letting it be understood that the necessary agreements to give effect to it would immediately be negotiated with the Powers concerned. Nearly a year and a half had, however, since passed, and nothing had happened. If, therefore, they could show no result in their negotiations by the time the People's Convention met on the 5th May, they would be compelled to take some decisive step; and this time they would have to follow it up and make it, so far as they were able, a reality; since no Chinese Government could be expected to survive another futile gesture such as that of the mandate of the 20th [28th] December, 1929.¹⁰

25. *American, French and Japanese Negotiations.* Such was the atmosphere in Chinese Government circles at this time, the middle of April. It seemed, indeed, that the Chinese Government, and especially the Minister for Foreign Affairs and the Waichiaopu, were suffering from an extraterritoriality complex, and all manner of wild, and at times almost hysterical, talk was current as to what would happen if no settlement in the negotiations with the various Powers were reached by the 5th May. In actual fact, no serious detailed negotiations were at this time being carried on except with His Majesty's Government, between the Minister for Foreign Affairs and myself at Nanking. The Americans continued to mark time, while waiting to gather the fruits of our negotiations, a position which was apparently acquiesced in by the Minister for Foreign Affairs, who had shown no particular anxiety to enter into detailed discussions with Mr. Johnson; no doubt because he was still working to get the American negotiations transferred back to Washington in the hope that a common Anglo-American front would thus be more difficult to maintain. In fact, as subsequently transpired, the Chinese Minister in Washington, on the 8th April, had handed to the State Department a draft treaty embodying the greater part of the texts of the Articles agreed upon between myself and the Minister for Foreign Affairs on the 27th March. The

¹⁰ See No. 183.

French Minister, pressed by the Chinese on the one side, and impeded by the unyielding attitude of his own Government on the other, was engaged in obscure manœuvres, involving French interests on the Yunnan frontier as well as extraterritoriality, with the result that he was making no progress whatsoever. As for the Japanese, they had so far made no real attempt to negotiate at all, apparently preferring, as in the case of the tariff negotiations of 1928-29, to await the outcome of the discussions between China and the other Powers.

26. *Visit to Peking over Easter.* I remained in Peking for ten days, awaiting your comments and instructions on the texts of the articles provisionally agreed upon and on certain of the outstanding points. Your replies to my telegrams came quickly, and, as soon as I felt myself in a position to resume the negotiations, I sent Mr. Teichman on two days ahead to Nanking in order that the ground might as far as possible be cleared by further preliminary discussions between him and Mr. Hsu Mo on the subject of the technical points raised in your instructions. Mr. Teichman reached Nanking on the 14th April, and was engaged during the next four days in negotiations with Mr. Hsu Mo on these technical points.

27. *Meeting with Tientsin Committee on April 16.* I myself left Peking on the 16th April, and on the same day, breaking my journey at Tientsin, I held a meeting with the Joint Committee of the British Chamber of Commerce and China Association at that port in order to explain to them the course of, and the position reached in, the negotiations. The committee seemed on the whole well satisfied with the terms we had so far obtained, but were naturally principally concerned to know whether the port of Tientsin would be one of the 'excluded areas'—as I had the honour to report at the time.

28. *Negotiations resumed at Nanking on April 18.* On the 18th April I arrived back in Nanking and resumed the negotiations with the Minister for Foreign Affairs the same day. Taking advantage of the ground already cleared by our respective experts, we were able to settle most of the points raised by you on the agreed texts of the 27th March and to make further progress by reaching tentative agreement, *ad referendum* to our Governments, on new articles covering immunities for British shipping in Chinese waters, and safeguards in connexion with arrest, imprisonment and trial, the latter on the understanding that our discussions of these matters were dependent on our surrendering criminal jurisdiction in return for satisfaction on all other points, including the reserved areas.

29. *Discussions with Minister for Foreign Affairs about Reserved Areas, April 18.* After the sitting on the 18th April, I had a private conversation with Dr. Wang, with the object of sounding him further in regard to the excluded areas, but was unable to make any progress. He repeated his offer of the International Settlement at Shanghai alone for a strictly limited period, and reiterated the impossibility of his Government agreeing to anything more, employing the usual covert threats concerning the dangers of public exasperation if no settlement were reached by the 5th May. On my side, I gave no indication of being able to budge on the full four excluded areas, and

countered his threats and appeals with the usual arguments, making use of the statement of the attitude of His Majesty's Government embodied in your memorandum handed to Mr. Sze on the 2nd [*sic*] April, a copy of which I communicated to him on the following day.

30. *Further Discussion with Dr. Wang Chung-hui.* I now allowed a pause of a few days in the negotiations while awaiting your instructions on the work done on the 18th April, and on certain outstanding points on which I was still awaiting your comments or redrafts. I took advantage of this pause to call on Dr. Wang Chung-hui, with a view to discussing informally the progress made in our negotiations and sounding him further on the subject of the excluded areas. On this occasion, however, I found him no more forthcoming than the Minister for Foreign Affairs, and the conclusion of a lengthy conversation left us precisely where we had started, I for my part insisting on, and he equally refusing to consider, the exclusion of the four areas.

31. *Negotiations resumed between Experts, April 22.* On the 22nd April Mr. Teichman met Mr. Hsu Mo again to work out some points of detail in the ground already covered, and start the usual preliminary discussions on certain new articles, on which your instructions had come through, concerning rights of residence and the publication of translations of the Chinese codes. As a result of these discussions the actual treaty itself began to take shape in the form of the fifteen articles already either agreed to or under discussion, together with attached declarations and exchange of notes. This was satisfactory, as up to this time from the outset of the negotiations only texts of individual clauses had been discussed, without reference to the actual form they would take when incorporated in the treaty, whether as treaty articles, annexes, or attached documents; and in the original Chinese draft of December 1930, something like half of the subject matter had been relegated to annexes.

32. *Progress made and Agreed Texts of April 27.* On the 27th April, having received your instructions on a number of the points referred home, including the important article on shipping, I resumed negotiations with the Minister for Foreign Affairs and made rapid progress in reaching final agreement, in confirmation of the work done during the previous few days by Mr. Teichman and Mr. Hsu Mo, on the following articles of the draft:—

- Article 1: Transfer of Jurisdiction.
- Article 2: Special Chambers.
- Article 3: Legal Counsellors.
- Article 4: Lawyers and Interpretation.
- Article 6: Taxation.
- Article 7: Arbitration.
- Article 8: Rights in Immovable Property.
- Article 9: Immunity of Premises.
- Article 10: Military Requisitions and Forced Loans.
- Article 11: Shipping.

Article 12: Companies.

Article 13: Pending Cases.

Non-discriminatory Treatment.

British-protected Persons.

Your instructions had not yet been received in regard to the draft we had submitted of article 5, containing safeguards in connexion with arrests, imprisonment and trial, but on their arrival a few days later we were able to add this article also to the agreed texts.

33. *Outstanding Points: Rights of Residence.* There remained still to be dealt with:—

Rights of residence;

Publication and translation of codes;

Personal status cases;

Reserved areas;

Abrogation of conflicting clauses in existing treaties;

Authoritative text;

Duration;

Ratification; and

Preamble.

Of the above, the first three had already been attacked by Mr. Teichman and Mr. Hsu Mo and I now took them up with the Minister for Foreign Affairs. The first was a very complicated and delicate question with the Chinese Government, who, it was well known, were determined on no account whatever to recede from the attitude that the general opening of the country to foreign residence and trade was to be retained as the final inducement for securing the 'abolition of the Unequal Treaties,' and was not to be granted until all the old treaty rights and privileges had been abolished and China's relations with foreign countries placed 'on a basis of complete equality and reciprocity'. This was realised by His Majesty's Government, who had inserted in the original British draft a clause providing for residence and trade throughout China rather as a tactical move than with the intention of insisting on the point. The whole subject was indeed a complicated and delicate one on our side also in view of the attitude of the Dominions towards the question of Chinese immigration. I had therefore been authorised to put forward a revised draft article merely providing that British subjects should enjoy rights of residence and trade, &c., in all localities where the nationals of other countries enjoyed such rights. Even this formula was, however, unacceptable to the Chinese, since it might in their view be held to prevent them from granting full rights of residence and trade to the nationals of a country which had surrendered all old treaty privileges without at the same time according equal rights to British subjects before His Majesty's Government had reached the same position in connexion with the abandonment of special treaty privileges, e.g., concessions, troops of occupation, &c. The Minister for Foreign Affairs practically admitted that the Chinese Government would not open the country to anyone until *all* had surrendered all

special privileges, but he could not be moved from what he described as a fundamental point in the policy of his Government. He offered the same declaration (the opening of the country when relations were on a footing of complete equality) as he had given to the Italian and other Governments who had concluded the Extraterritoriality Treaties of 1928, but His Majesty's Government had already considered and rejected this formula as unsuited to the circumstances of the present negotiations. Ultimately I agreed to submit to you a redraft embodying an addition to our formula providing that, where such rights of residence and trade were granted only on the fulfilment of certain conditions, such conditions would also have to be fulfilled by British subjects. Subsequently, after further telegraphic consultation with you, it was decided that it was undesirable for various reasons to accept such a conditional most-favoured-nation clause and that it would be better under the circumstances to defer the question of the opening of the interior to a later date and to rest content for the time being with the confirmation of existing rights in regard to travel, residence, trade, industry, and so on (see also paragraph 47 below).

34. *Publication of Codes.* We next took up the draft Article providing for the publication and communication to His Majesty's Government of the texts and translations of Chinese codes, laws, &c. This was another point on which the Chinese Government had throughout been extremely touchy, since they always reacted violently against any suggestion that their codes could be subjected in any sense to the scrutiny of foreign Governments, or that they were under any obligation to provide official translations of their laws in any shape or form. No progress was made with this Article, though we agreed tentatively further to explore the possibilities of reaching common ground in an exchange of notes. Ultimately, at a later stage in the negotiations, agreement was reached on a draft note to be addressed to me by the Minister for Foreign Affairs, which met our requirements sufficiently in this respect.

35. *Personal Status.* Finally, we discussed the question of personal status cases on which we had been working for some time. The problem was how to create a bridge between our proposals, removing all such cases entirely from Chinese jurisdiction, and the Chinese proposals, merely providing for the application to such cases by the Chinese courts of British law. The whole subject bristled with knotty points, legal, administrative, and financial, including the complications connected with the administration of the estates of deceased persons, the levying of probate fees, and so on. I felt very strongly from the outset that we should never be able to reach a settlement unless we sought to keep our formula as simple as possible, working on the lines that, while in general British law would be applied by the Chinese courts in such personal status cases as might fall under their jurisdiction, cases in which only British subjects were concerned would be reserved for British jurisdiction. As had throughout been our experience in these negotiations, our attempts to induce the Chinese themselves to put forward new proposals in the place of their original draft produced no results whatsoever, and we were thus

constrained in this case again to formulate new proposals ourselves. With this object in view I had discussed the matter fully with the Crown Advocate and Mr. Teichman, and, with Mr. Mossop's assistance, Mr. Teichman had already submitted and discussed tentatively with Mr. Hsu Mo a compromise redraft which seemed to meet the case from our point of view. This text was now discussed and I was finally able to reach agreement with the Minister for Foreign Affairs on a new draft article *ad referendum* to His Majesty's Government and without commitment on my side.

36. *Reserved Areas: Discussion of April 27: Minister for Foreign Affairs offers International Settlement at Shanghai for Three Years.* After we had finished our work on the treaty texts I had a private discussion with the Minister for Foreign Affairs on what had by now become the major issue on which the fate of the whole treaty depended, namely, the question of the reserved areas. Dr. Wang now came out with his definite proposal, which he described as his furthest offer, the exclusion of the Settlement at Shanghai and the Settlement alone for a period of three years. I pressed him hard again and warned him that His Majesty's Government were most unlikely to consider anything so inadequate, but failed to make any impression on him. In such an atmosphere it was clearly useless to show my hand in regard to bargaining and for the time being I left it at that on the understanding that I would at once report his offer to you and await your instructions.

37. *Negotiations of other Powers: Dutch and Norwegians Settle: American Negotiations resumed at Washington.* In the meanwhile the Norwegian and Netherlands Ministers had concluded their negotiations and joined the majority by signing on the 23rd April agreements on the models of those concluded in 1928 with Italy, Spain, Denmark, Portugal and Belgium. The Norwegian Minister was good enough to communicate to me copies of the notes he had exchanged with the Minister for Foreign Affairs, which provided that Norwegian nationals would come under Chinese jurisdiction simultaneously with the nations of those countries which participated in the discussions of the Washington Conference. The Netherlands Minister was curiously secretive and neither communicated to me a copy of the text of the agreement, nor even informed me of its general purport, or of the fact that he had signed it. As regards the negotiations of the major Powers, the Japanese Chargé d'Affaires had been recalled to Tokyo to confer with his Government. The French were making no progress. While, as regards the United States, the State Department were discussing the texts of our agreed Articles with the Chinese Minister at Washington, whither the American negotiations had been tacitly retransferred. It looked as though the State Department had never had any real intention of handing them over to Mr. Johnson at Nanking; that they had only considered doing so when they had at the outset reached a complete *impasse* with Mr. C. C. Wu; and that, as soon as, thanks to our agreed texts, they saw their way out, they immediately took matters back into their own hands. This transfer of the American negotiations back to Washington was, of course, welcomed on the Chinese side; and, though the procedure was cumbersome, we were able to keep in reasonably close

touch with the American negotiators, thanks to the loyal co-operation of my American colleague (of whose attitude throughout I cannot speak too highly), to whom I communicated the texts of the various articles as and when agreed upon between myself and the Minister for Foreign Affairs, and with whom I discussed freely and frankly all points as they arose in the course of the negotiations. I also at this stage communicated, in the strictest confidence, the texts of the Articles so far agreed upon to the Japanese and French representatives at Nanking.

38. *Reserved Areas: His Majesty's Government's Instructions of April 27 and 29.* We were now closing in on the final and crucial point in the negotiations, the question of the reserved areas. On the 29th April I received your telegraphic instructions (despatched on the 27th April)¹¹ dealing generally with this point, and on the following day your further telegram arrived dealing more specifically with the offer of the Minister for Foreign Affairs to concede the reservation of the International Settlement at Shanghai for a period of three years and nothing more.¹² This offer was, you stated, unacceptable and could not even be made the basis of discussion. Your telegrams contained a full statement of the reasons why His Majesty's Government could not possibly give way on the question of the four reserved areas; and certain suggestions were put forward that we should now pause to give Japan and France the opportunity of reaching the point we were at, or, alternatively, that the Chinese should accept the reservation of the four areas and sign the treaty with us and that provision should be made for a Joint Sino-British Commission to be set up after the entry of the treaty into force to study the question of the reserved areas and their [*sic*] Settlements and Concessions, on the understanding that negotiations on the basis of the recommendations of this commission would be entered into within a period of, say, three or five years.

39. *Reserved Areas: Interview with Minister for Foreign Affairs on May 1.* On the 1st May I had an interview with the Minister for Foreign Affairs and read to him the bulk of the above telegrams. Dr. Wang, who was evidently impressed by, as well as greatly disappointed at, the very firm tone of these messages, which, I was at pains to explain, represented the *ipsississima* [*sic*] *verba* of His Majesty's Government, repeated in the course of our subsequent conversation in the most categorical terms that it was absolutely impossible for his Government to meet us over the four reserved areas or the 50-li zone round Shanghai. I urged repeatedly and as strongly as I could that he should give consideration to your very weighty suggestion regarding the establishment of a joint commission to study the question of the reserved areas, but without result, and the discussion again ended without any apparent progress being made.

40. *Reserved Areas: Doubts as to His Majesty's Government's Instructions.* I was at this point somewhat puzzled as to the real attitude and intentions of His Majesty's Government towards the question of the reserved areas. My original instructions, received at the beginning of March, had indicated that

¹¹ See No. 403.

¹² See No. 410.

our 'last ditch' was to be Shanghai, if necessary even only the International Settlement. In subsequent secret telegraphic correspondence I had myself expressed the view that, while we could if necessary give up the reservation of Hankow and Canton, and throw in the British Concession in Shameen, we should insist on the reservation of Tientsin as well as of all Shanghai (not merely the International Settlement). The full telegraphic instructions which I had now received, however, appeared to indicate that His Majesty's Government intended to hold out uncompromisingly for the reservation of all four areas. Yet on the top of these instructions I received another telegram from home dealing separately with the question of the progressive abandonment of Hankow and Canton, with special reference to the necessity of consultation with the French as regards the rendition of Shameen.¹³ In reporting, therefore, the deadlock now reached, I pointed out that we had so far maintained our original demands intact for the full reservation of all four areas, and I enquired specifically whether I was authorised to bargain, as I had hitherto understood to be our intention, on the basis of dropping Hankow and Canton, and, if necessary, throwing in also the Shameen Concession, in order to secure satisfactory arrangements at Shanghai and Tientsin.

41. *Chinese Political Crisis: Canton declares against Chiang Kai-shek.* In the meantime there had been sudden and unexpected developments in the general political situation in China. On the very eve of the assembling of the People's Convention on the 5th May, the generals and political leaders at Canton issued a declaration openly repudiating General Chiang Kai-shek, whom they accused of arrogating to himself the powers of a personal dictatorship. These developments had a definite bearing on the extraterritoriality negotiations. On the one hand the National Government, Chiang Kai-shek, and the Waichiaopu, in their anxiety to justify their conduct of China's foreign relations, and, above all, of the campaign for the 'abolition of the unequal treaties', before the People's Convention on the 5th May, had again and again announced publicly that extraterritoriality was to come to an end, whatever the result of the negotiations, by that date; with the result that, as was to have been expected, the climax of the negotiations, namely, the deadlock over the reserved areas, appeared likely to synchronise with the opening of the convention. On the other hand, the National Government was, it seemed, at the same moment being shaken to its foundations by this internal split in the structure of the party, which threatened to result in the secession from the fold of Kwangtung, the traditional home of the *Tang* and the Revolution. Two leading members of the Government, Mr. Sun Fo and Dr. Wang Chung-hui, who were both Cantonese, left Nanking at this time and retired to Shanghai, the former, as it subsequently transpired, *en route* to join the recalcitrant Southern chiefs in Canton, and the latter *en route* to Europe to resume his post as one of the judges of The Hague Court, on account, it seemed, of the unhealthy atmosphere in the capital for Cantonese political leaders. Thus by the irony of circumstances the two principal legal champions in the extraterritoriality issue on

¹³ See No. 409.

the Chinese side, Hu Han-min and Wang Chung-hui, the heads of the Legislative and Judicial Yuan[s] respectively, had disappeared from the scene at the very moment when the negotiations were reaching the most critical stage. This did not necessarily mean any diminution in the drive for the abolition of foreign extraterritorial rights, but it did mean the transfer of its direction to other and possibly less skilled and experienced hands.

42. *Negotiations continued May 4: Minister for Foreign Affairs' further offer of Greater Shanghai for three years.* It was quite impossible to tell how serious the Canton movement might turn out to be, but in this somewhat delicate situation I felt sure that the best course to follow was, as usual, to carry on, pending developments, as though nothing had happened; and, incidentally, it seemed that the political crisis might, from our point of view, not be altogether inopportune, since it might well serve to distract attention from our negotiations, which, I had throughout maintained in my discussions with the Chinese, were being conducted on our side without reference to the exigencies of Chinese domestic policy. At the conclusion of my interview with the Minister for Foreign Affairs on the 1st May, I had specially stated that so far as I was concerned I did not, in spite of our failure to make any progress towards reaching common ground on the question of the reserved areas, regard the door as in any way closed to further negotiation. To this Dr. Wang did not demur, and in fact the discussions between Mr. Teichman and Mr. Hsu Mo on the complicated question of personal status cases and other outstanding points were continued on the 4th May without reference to the political crisis and the opening of the People's Convention on the 5th May. On the same day I had occasion to meet Dr. Wang privately for a discussion of other matters, after the disposal of which the question of the extraterritoriality negotiations was naturally touched upon. In the friendly and intimate atmosphere of private conversation I was able to draw from him an advance on his previous offer of the reservation of the Shanghai Settlement alone to the extent of a tentative suggestion that the reserved area might be increased to cover 'Greater Shanghai', provided we could hold out hopes of a settlement of the 'outside roads' controversy, so as to avoid creating the impression that we were seeking under cover of the extraterritoriality negotiations to make a move in the old vexed question of the extension of the International Settlement. During the next few days this offer was referred to on more than one occasion, and, after it had been made also to the State Department in Washington, it assumed the character of a definite Chinese counter-proposal.

43. *Opening of People's Convention and issue of Mandate of May 5 [4].*¹⁴ On the 5th May the People's Convention opened; and, following on a smoke screen of press propaganda about the negotiations being deadlocked and broken off (to which, backed by an erroneous report issued by Reuter, the leading British newspaper in Shanghai, with some lack of wisdom, gave full publicity, even devoting a leading article to the subject), the National Government on the same day took their much-heralded 'unilateral action' by issuing a mandate

¹⁴ See No. 417.

on the subject of foreign extraterritorial rights. The mandate promulgated a set of regulations in twelve Articles, to come into force on the 1st January, 1932, governing the exercise of jurisdiction over foreign nationals in China, the latter being specified as those still in enjoyment of extraterritorial rights on the 31st December, 1929. As was expected, these regulations were designed to set up the framework of the arrangements agreed upon in our negotiations, including the special chambers and legal counsellors, and provided for the substance, in emasculated form, of the agreed assurances in regard to arrests, arbitration, appearance of foreign lawyers, limitation of police jurisdiction, and so on. At the same time the Minister for Foreign Affairs issued a statement in which he referred to the mandate of the 28th December, 1929, and to his own accompanying declaration of that time announcing that the Chinese Government was prepared to consider and discuss within a reasonable time any representations that might be made by the Powers concerned; in pursuance of the above pronouncements the National Government had been conducting negotiations with the Governments of the six Powers concerned during the past year and a half; certain of these Governments had concluded satisfactory arrangements; but the negotiations with other Powers, including Great Britain and the United States, had not yet yielded the desired solution; the National Government appreciated the very warm sympathy already shown by these Powers, especially Great Britain, in its endeavours to consummate China's aspirations, and it was sincerely to be regretted that they did not see their way to meet completely the unanimous and ardent wishes of the Chinese Government and people; in view of Dr. Sun Yat-sen's behest in regard to the convocation of the People's Convention and the abolition of the unequal treaties, the National Government had no alternative but to declare that the extraterritoriality negotiations with the various Powers had reached an *impasse*, and to issue the mandate concerning the exercise of jurisdiction over foreign nationals in China. In due course these heroics were backed up by the issue on the 13th May of a manifesto of the People's Convention, declaring its non-recognition of the 'Unequal Treaties' and the intention of the Chinese people to secure their abrogation. A few days later the Convention came to an end, having passed the provisional constitution and made the necessary declarations in support of the domestic and foreign policies of Chiang Kai-shek and his Government.

44. *Sequence of Events leading up to Mandate of May 5.* The sequence of events on the Chinese side leading up to this *dénouement* was as follows. Firstly, the addressing to the Powers concerned, in the spring of 1929, of invitations to negotiate for the abolition of extraterritoriality; secondly, the issue on the 28th December, 1929, of the mandate announcing unilaterally that as from the 1st January, 1930, all foreigners would be subject to China's laws, accompanied by a vaguely-worded declaration indicating that the National Government was still willing to negotiate with the Powers concerned; thirdly, the appearance towards the end of 1930 and early in 1931 of various statements indicating that the National Government intended to take further

unilateral action towards the abolition of extraterritoriality by the 5th May, 1931, the date of the opening of the People's Convention, whether the negotiations were concluded by that date or not; and lastly, the issue on the 5th May, 1931, of the mandate promulgating the regulations taking jurisdiction over foreigners as from the 1st January, 1932, two years from the date of the first unilateral action. On the foreign side the position in regard to the negotiations was unchanged, except that China had fixed yet another time limit, namely, the end of 1931, within which a settlement was finally to be reached. It was not to be expected that, granted reasonable stability of government, the responsible Chinese political leaders would, when the time came, rest content with another paper gesture like the mandate of the preceding year.

45. *Resumption of Negotiations on May 8, after Issue of Mandate.* By this time we were approaching the completion of our task of building up the general body of the treaty, but a certain amount of work had still to be done on various outstanding points, including the difficult and contentious matter of personal status; and it remained to be seen, when we resumed contact after the opening of the People's Convention and the issue of the Chinese Government mandate and the statement by the Minister for Foreign Affairs on the subject of extraterritoriality, whether we were to continue our work in the same spirit as before, or whether, with the removal of the incentive of the fateful date, the 5th May, we should find the Chinese negotiators less forthcoming and anxious to reach a settlement. Mr. Teichman actually resumed his discussions with Mr. Hsu Mo on the 8th May, and found no apparent difference in the Chinese attitude, good progress again being made. A number of drafting amendments, which the Foreign Office desired to see introduced into the agreed texts, were for the greater part disposed of. The remaining articles of the treaty, beyond those already agreed upon, were discussed, and numbered from 13 to 22, thus definitely deciding the form of the treaty. Amongst these articles and notes discussed and tentatively agreed upon at this time were those concerning rights of residence, the abrogation of conflicting clauses in the existing treaties, provision for an authoritative French text, the publication of translations of the principal Chinese laws, and the question of personal status cases.

46. *Discussions concerning Personal Status Cases.* As regards this latter subject, personal status, the Foreign Office had proposed a number of amendments in the text tentatively agreed upon on the 27th April, thus necessitating the reopening of the whole question, with curious results illustrating the difficulties of conducting negotiations, meant to be as far as possible identical, simultaneously at Nanking and Washington. When Mr. Teichman on the 4th May had discussed the proposed amendments with Mr. Hsu Mo, the latter had stated at the outset that the Chinese did not understand why His Majesty's Government were so particular in seeking to retain in their own hands these personal status cases when the American Government had offered to concede full jurisdiction in such matters to the Chinese courts, provided they were satisfied with the adequacy of the relevant Chinese laws. In view of this development, which could not fail seriously to prejudice our position

in regard to this article, Mr. Teichman thought it best merely to leave our new proposals with Mr. Hsu Mo without making for the moment any serious attempt to reach agreement on them. Subsequently I explained the situation to my American colleague, with the result that the State Department withdrew the draft they had submitted to the Chinese Minister in Washington and substituted for it one on the lines of our tentatively agreed draft of the 27th April, thus again, unwittingly, undermining our position, this time in regard to securing the amendments which the Foreign Office desired to see inserted in that draft. In the circumstances, I was satisfied with, and had no hesitation in submitting for your approval, the new draft of the 8th May, agreed upon by Mr. Teichman and Mr. Hsu Mo, which embodied most, but not all, of the Foreign Office amendments.

47. *Visit to Shanghai and Meetings with Joint Committee, May 14, 15, and 16.* On the 12th May, as I had learned that the instructions for which I was waiting could not reach me for some days, I proceeded to Shanghai, in order to take the opportunity of this pause in the negotiations to discuss local questions with His Majesty's Consul-General, and once more to explain the position reached to the local Joint Committee of the British Chamber of Commerce and China Association. I met the Joint Committee on the 14th May, and, as usual, informed them fully and frankly of recent developments in the negotiations. No criticisms were raised and no special comments were made. Subsequently Mr. Calder Marshall, the chairman of the Joint Committee, wrote me a letter enquiring whether copies of the texts of the agreed Articles could be communicated privately to the committee in case they should desire to make comments and suggestions, or, alternatively, whether Mr. Teichman could meet the committee with a view to a more detailed consideration of the articles (the substance or texts of which had, as on previous occasions, been read out at the meeting on the 14th May). As I had not been conducting these negotiations with the co-operation of the Joint Committee (which would in any case have been an unworkable procedure), but had merely kept them closely informed at all stages of the negotiations, it seemed unwise to communicate copies of the texts, which had been carefully examined and passed by experts at home, for comments and suggestions at this late stage. I therefore agreed to the alternative suggestion, and instructed Mr. Teichman to meet the Joint Committee again and explain in greater detail the agreed texts and how they had been reached. Mr. Teichman met the members of the committee again on the 15th and 16th May, and went through each Article in detail, explaining all points requiring elucidation, answering questions, and inviting comment and enquiry. Again no serious criticisms were raised, and such comments as were made were generally favourable, the opinion being expressed that, as regards the various legal guarantees, the position had, as far as such written guarantees could go, been fully safeguarded; so that we should, in fact, in many respects be in a stronger position, in connexion with immunities against requisitions, forced loans, expropriations, and other arbitrary acts, than under the existing treaties, or rather what in practice was left of them. The members of the Committee

appeared fully to realise the difficulties with which we had had to contend; and in regard, for instance, to Article 15 (concerning rights of residence), no adverse comment whatsoever was made on our having tacitly to accept the position that the question of the opening of the interior to residence and trade would have to be deferred; and the decided opinion was expressed that the proposed article would be valuable, even if limited, as now suggested, to a confirmation of existing rights 'to travel, reside, establish firms, open branches, acquire or lease property, work and engage in industry or commerce' (see paragraph 33 above). In the course of the detailed discussion of the various articles, certain minor points were raised by the members of the committee in connexion with the desirability of obtaining assurances on matters such as police detention in case of minor incidents and offences (e.g., motor-car licence cases), limitation of liability in cases of persons standing bail, recognition of the qualifications of British professional men, such as doctors, chartered accountants, architects and engineers, and the acceptance of auditors' certificates, with a view to dispensing with inspections of the books of banks and firms.

48. *Foreign Office Instructions regarding Reserved Areas received May 15.* I had arrived in Shanghai on the 13th May, and remained there until the night of the 16th May. During these days I received your instructions on a number of points which I had referred to the Foreign Office, including your reply to my request for specific instructions as to whether or not I was to bargain on the subject of the reserved areas (see paragraph 40 above). In this reply you stated that you approved the continuance of the negotiations in the manner suggested (i.e., throwing in, if necessary, the reserved areas at Hankow and Canton and the concession at Shameen to secure satisfactory arrangements at Shanghai and Tientsin). You went on to state, however, that, in view of the wide publicity given to the state of the negotiations, and the stand taken up by His Majesty's Government over the four reserved areas, His Majesty's Government would be placed in a difficult position if it later appeared that they had offered to surrender Hankow and Canton without obtaining a definite treaty containing adequate safeguards; I was therefore instructed to be careful not to make any offer of these two places except as a final step in securing a treaty which would be definitely accepted by the Chinese Government; and that there must be no concessions in regard to the above ports unless a settlement was actually reached. Once again I found these instructions somewhat puzzling, since I appeared to be debarred under them from playing any of the cards in my hand, unless the Chinese made some further advance (which it was obvious that they would not do, as they had made their two offers, first of Shanghai, and then of Greater Shanghai, and were waiting for the next move from us), and actually suggested some modification of our insistence on all four reserved areas as the price of a definite settlement. I accordingly replied to your telegram, pointing this out, and stating that if we failed to make any progress in getting the Chinese to agree to our four reserved areas (and it was evident we could not expect to do so), I should leave Nanking and return to the North.

49. *Meeting with Minister for Foreign Affairs on May 18.* I arrived back in Nanking on the 18th May, and on the same afternoon was in session with the Minister for Foreign Affairs for over three hours, Mr. Teichman and Mr. Hsu Mo, as usual, assisting. At first we made good progress in disposing of ground already covered. Article 14, concerning the vexed subject of personal status, was at length agreed to, with the exception of two words, which were left outstanding, but which were subsequently accepted on the Chinese side. Article 15, confirming existing rights of residence and trade, &c., was accepted, on the understanding, on our side, that I should at the time of the signature of the treaty address the Minister for Foreign Affairs a note reserving on behalf of His Majesty's Government the right to raise the question of the opening of the interior at such later date as they might deem appropriate. Articles 19 and 20, regarding the abrogation of conflicting clauses of existing treaties and the authoritative French text were agreed to. Three additional paragraphs covering minor points in the agreed minute were accepted. The constitutional and drafting amendments which His Majesty's Government desired to see introduced into the texts were disposed of, and a new draft note from the Minister for Foreign Affairs which I had prepared, covering the assurances on minor points desired by the Shanghai Joint Committee, was discussed and eventually accepted by Dr. Wang. Subsequently the Chinese negotiators, complaining that there was no end to the assurances for which we asked, sought to dispense with this note, or, alternatively, to incorporate its contents in the 'agreed minute'; but I was able successfully to insist that the note must stand.

50. *Meeting of May 18: Preamble.* There were now left outstanding only the preamble, Article 16 (Reserved Areas), Article 21 (Duration), and Article 22 (Ratification). We accordingly turned to these new texts, and I submitted, to begin with, a draft preamble as telegraphed out to me from the Foreign Office. The Minister for Foreign Affairs took exception to the phraseology, more especially to the references to 'the extraterritorial system' and 'the modification' (or 'abolition') 'of extraterritorial jurisdiction', which seemed to me also rather clumsy and awkward; particularly in view of the fact that, under the treaty, with its reserved areas, we were neither exactly 'modifying' nor 'abolishing' extraterritorial jurisdiction. Eventually, after the Minister for Foreign Affairs had tried his hand at redrafting our formula 'on a basis of equality and mutuality', we found common ground on a more simple version referring merely to the desire of both parties 'to arrange for the removal of the restrictions on China's jurisdictional sovereignty'; which I undertook to recommend to you. Subsequently I received from you the text of the preamble of the Dutch treaty, which had just been communicated to the Foreign Office; this merely referred to the readjustment of 'matters relating to jurisdiction,' and was eventually accepted as being the most suitable.

51. *Meeting of May 18: Duration.* I next presented an article providing for a ten years' duration of the treaty, along the lines of our original draft of September 1930. This I did as a tactical move, expecting that it would be rejected as unacceptable, since I was well aware that the Chinese Govern-

ment could not be induced to agree to any wording which could be interpreted as binding them, on the lines of the vague duration clauses of the old 'Unequal Treaties', to the continuance for an indefinite period of special rights and immunities for foreigners in any shape or form; indeed, even in their recent reciprocal commercial treaties with minor European Powers they had refused to accept a duration of more than five years. The upshot of a lengthy discussion was tentative agreement on the following three points of principle: that the treaty itself would last for a certain period—I insisted on ten years and Dr. Wang offered five; that certain special provisions, such as the arrangements in regard to special chambers and legal counsellors, should last for a shorter period—I suggested seven years, and Dr. Wang offered three; and that the clauses in existing treaties abrogated as conflicting would not be revived on the termination of the treaty. This was as far as we got at the time on this point. Subsequently, Mr. Teichman and Mr. Hsu Mo worked out a text for the duration article, on the above lines, leaving the specified periods outstanding for the time being; and eventually I was able, in the course of the crucial discussion about the reserved areas, to manoeuvre the Minister for Foreign Affairs into accepting my periods of ten and five years for the main treaty and the special provisions respectively. This text was accepted as agreed ground until, at the last moment, I received your further instructions on the subject, with the result that final agreement on this article was not reached until our last discussion on the 5th June, as reported in paragraph 67 below.

52. *Meeting of May 18: Ratification.* I next presented the draft of a ratification article, based partly on the text which you had telegraphed to me. The main features of this draft were that ratifications were to be exchanged as soon as possible; provided that the Chinese Government should have manifested their ability to give effect throughout China to the terms of the treaty; and provided that China should first or simultaneously have concluded similar agreements with the other Powers concerned, so that British subjects would only be amenable to Chinese jurisdiction as from a date applicable to all foreigners. As I expected, Dr. Wang objected very strongly to both these provisos; in fact, he stated most categorically that the Chinese Government could not possibly accept either in any shape or form. He also insisted that (as in the case of the Weihaiwei Convention) a date should be fixed within which ratifications should be exchanged (having the 1st January, 1932, in mind). I subsequently got him to drop this point, but on the subject of the two provisos he was adamant. As regards the first, I undertook to report to you his objections, which personally I considered to be not without force. A similar point had arisen in connexion with the Weihaiwei negotiations, when the difficulties attending such a proviso had been clearly manifested. Moreover, if such a stipulation were to stand, when the time for ratification came, His Majesty's Government would in all probability either have to refuse to ratify on what might well be a technical point, or, by ratifying in the face of such a clause, expose themselves to criticism and ridicule from the British press and British interests in China owing to the obvious inability of

the Chinese Government at Nanking to give strict effect to the terms of the treaty (if called upon to do so) in remote parts of, say, Yunnan, Szechuan, Kansu, and other border provinces. In regard to the second proviso, however, I made it quite plain that His Majesty's Government, whatever course they might ultimately decide to follow, could not possibly agree to bind themselves to any agreement which might result in British subjects passing under Chinese jurisdiction while other foreign nationals still in practice retained their extraterritorial rights, for I foresaw the possibility of a situation arising in which we and the United States might have concluded our treaties while Japan, and perhaps France, had not done so, and in which China might then seek on the 1st January, 1932, to carry into effect her declared intention of assuming jurisdiction over all foreigners, without in actual fact being able to enforce such jurisdiction on Japanese nationals at the ports. The Minister for Foreign Affairs argued that the point was safeguarded by the provisions against discrimination in Article 18, and became unusually heated in vehemently declaring that China would 'ride roughshod' over any Power that blocked the way. When I referred to the provision, similar to the one I required, in the Sino-Italian settlement of 1928, he declared that times had changed, and that, while he would absolutely guarantee me against the point I had made, he could, since the People's Convention and the mandate of the 5th May, under no circumstances agree to any stipulation that China must first *come to an agreement* with all the Powers concerned. Eventually he offered the formula, which I undertook to refer to you, to the effect that it was to be understood 'that British subjects would only be amenable to Chinese jurisdiction as from the date on which such jurisdiction is enforced on the nationals of all the Powers'. Final agreement on this point was not reached until the end of the negotiations (see paragraph 62 below).

53. *Meeting of May 18: Reserved Areas.* In conclusion, I raised the major outstanding issue of the reserved areas, and, with the object, as I explained, of focussing the points at issue, I submitted a new draft article, which I had prepared, in four clauses, the first providing that the transfer of jurisdiction would not apply in areas where Chinese administrative jurisdiction did not apply (referring to the foreign-controlled Settlements and Concessions); the second providing for the exclusion of ring areas round Shanghai, Tientsin, Hankow and Canton; the third providing (in the terms of your telegram) for a joint commission to study the question of the reserved areas and for negotiations on the basis of the recommendations of such commission to be entered upon within a certain number of years (you had suggested three or five—I inserted ten to start off with); and the fourth providing for the continuance in the reserved areas of the jurisdiction of the British courts. I was fully aware that it would be impossible for the Chinese Government to accept this text, which contained the substance of all our original demands. But under my instructions (see paragraph 48 above) I did not feel authorised to suggest any concessions beyond meeting the Chinese objection to the '30-li zones' by referring to the Chinese municipal areas of the ports in question, which, supported by Chinese maps, covered the necessary ground, including the

foreign Concessions and Settlements and neighbouring Chinese municipalities. As I expected would be the case, the more Dr. Wang and Mr. Hsu Mo examined the text the less they liked it, and, after they had explained their insuperable objections to each paragraph, and the impossibility of negotiating on such a basis, the interview, which had up to that moment proceeded for over three hours in a very friendly and favourable atmosphere, came abruptly to an end.

54. *Americans present Draft Treaty at Washington.* It should be mentioned at this point, to preserve the chronological sequence of this report, that about this time the American Minister communicated to me the text of a draft treaty presented to the Chinese Minister in Washington by the State Department on the 27th April. This draft contained the texts, with a few verbal alterations and additions, of the articles agreed upon between the Minister for Foreign Affairs and myself up to that time, as well as drafts, on the lines of our original proposals, of the other articles still outstanding. So far nothing new had been accomplished by the State Department, since the Chinese Minister in Washington had refused to discuss even minor details, referring everything to Nanking. I urged, however, on my American colleague the importance, in which he fully concurred, of our being informed of all points, if any materialised, on which the State Department might secure improvements on our texts, in order that when the time came we might incorporate them in our treaty; we were communicating every article or other document, as and when agreed upon, usually the same day, to the American Government through Mr. Johnson at Nanking, and we looked to the State Department to keep us similarly informed of their doings.

55. *Americans suggest Consular Convention.* My American colleague also consulted me at this time, under instructions from his Government, as to the desirability, which was favoured by the State Department, of seeking to incorporate in the treaty either the substance of a consular convention, or provisions for safeguarding the position and functions of consular officers. My own view on this point was that no useful purpose would be served by raising this point in the extraterritoriality negotiations; if we did so, the Chinese would certainly bring up the embarrassing question of exequaturs, while they were most unlikely to agree to anything more than strictly reciprocal treatment for consuls, as in their recent reciprocal treaties with minor European Powers; moreover, it would be futile to propose to the Chinese (as suggested by the State Department) any reference in the treaty to the continuance of the hated 'consular jurisdiction' (which is, incidentally, the common Chinese term for extraterritoriality), any necessary provision for the continued functioning of the British courts in the reserved areas being best included in or in connexion with the relevant article (No. 16); and, finally, since we should presumably be proceeding, after the conclusion of the extraterritoriality negotiations, with the negotiation of a commercial treaty on a more reciprocal basis, it seemed better to reserve the question of consuls until it could be adequately dealt with in such an agreement. These views were subsequently endorsed by the Foreign Office, and my American colleague

was so informed. I was subsequently informed, however, that the American Government intended to pursue their proposal to incorporate in the treaty something on the lines of a consular convention, in regard to which I could only wish them success.

56. *Further Instructions re Reserved Areas and Conversation with Minister for Foreign Affairs, May 21.* On the 21st May I received further instructions making it plain that the previous instructions which I had found somewhat ambiguous (see paragraph 48 above) were intended to give me the necessary degree of latitude in seeking to reach an agreement on the basis of the exclusion of Shanghai and Tientsin alone. This telegram went on to point out the dangers of adjourning the negotiations and the desirability of arriving at a settlement without further delay if it were possible to do so. These instructions arrived opportunely, since I had already arranged to take the Minister for Foreign Affairs for a cruise on the river on the afternoon of the same day with a view to having a heart-to-heart talk with him on the subject of the negotiations. Once again experience demonstrated the advantages of private conversation over formal negotiations, and during the three hours we were on the river I was able to lead him on to a frank and friendly discussion of possible lines of compromise. He, for his part, explained with equal frankness the difficulties of his own position and the impossibility of his agreeing to the reservation of the four areas, which the Chinese public would regard as the perpetuation of the foreign Concessions in those areas—at the very moment when the recovery of these Concessions was, as everyone knew, one of the main planks in the foreign policy of the Chinese Government. Finally, in the course of our lengthy conversation I took the opportunity of throwing out a broad hint that we might consider the rendition of the British Concession at Canton, and, as additional inducements, some form of assurance of a settlement of the Shanghai extra-Settlement roads question and the payment by British subjects of Chinese taxation in the reserved areas.

57. *Reserved Areas: Discussion of May 24: Minister for Foreign Affairs offers Shanghai for Five Years and Tientsin for Three Years.* During the next day or two I worked out the necessary formulæ, and, on Sunday morning, the 24th May, I met Dr. Wang again at his residence for a further private discussion. I had, I said, during the interval crystallised the results of our conversation on the 21st May into a rough draft to facilitate discussion, and to make things easier had gone so far as to increase my offer (referring to the dropping of the Canton reserved area as well as the rendition of Shameen). But before putting in my draft I must make my position absolutely clear. My present offer was strictly conditional on all outstanding points in the draft treaty being disposed of to our satisfaction, including duration periods of ten years for the whole treaty and lesser periods of five years for Articles 2 and 3 *only*, an acceptable ratification clause, and so on; secondly, the terms of the offer I was now about to make were formulated on my personal responsibility and at the risk of incurring your displeasure; and, thirdly, the offer was made on the clear understanding that Shanghai and Tientsin would be treated alike as regards the reserved areas there. I then handed him a draft text providing

for the exclusion of the municipal areas (comprising Concessions and Settlements and surrounding territory within Chinese municipal limits) at Shanghai, Tientsin and Hankow, where the jurisdiction of the British courts would remain in force, the payment of regular taxation by British subjects in the said areas, an undertaking to enter into negotiations within five years on the subject of 'the arrangements to be made' in the areas, and an undertaking to enter into immediate negotiations for the rendition of the British Concession at Canton. To the draft article was attached a draft exchange of notes providing, on our side, that His Majesty's Government would support immediate negotiations for a solution of the question of the extra-Settlement roads at Shanghai, subject to specified safeguards, and, on the Chinese side, that British subjects resident in areas in China in which Chinese administrative jurisdiction did not apply would enjoy all such exemptions from Chinese jurisdiction as were enjoyed by the nationals of any other country; this latter formula being designed to cover in a form more palatable to the Chinese the position of British subjects in non-British Concessions. The upshot of a lengthy discussion was that the Minister for Foreign Affairs insisted absolutely (a) that there must be a time limit for the excluded areas, and (b) that the exclusion of Hankow could not be considered; but he improved on his previous proposals (which had been first the International Settlement at Shanghai, and then the Greater Shanghai area, for a period of three years) to the extent of offering the reservation of Greater Shanghai for five years and an area at Tientsin for three. This was a notable advance in that the principle of the reservation of an area at Tientsin was for the first time accepted on the Chinese side. I was also able after keen argument to get the Minister for Foreign Affairs to agree to the duration periods we wanted, namely, ten years for the whole treaty and five for Articles 2 and 3. I refrained from committing myself to anything more than an examination of Dr. Wang's further offer, and no progress was made on other points of detail in my draft; but I was encouraged by what had been accomplished to feel that the process of bargaining along the lines we had from the outset had in mind was beginning, *more sinico*, to produce results. It was agreed that we should take another river trip and continue our conversations on the following day. Discussing, as I always did, what had passed at this interview with my American colleague immediately after, the same thought struck both of us, namely, whether our formula for the duration of exemption from Chinese jurisdiction in the reserved areas, based on the Foreign Office proposals for a joint commission, &c., and containing an undertaking to start negotiations within five years, might not be somewhat dangerous, since the Chinese could under it press to open negotiations immediately after the treaty was signed; and whether it might not be better to meet the Minister for Foreign Affairs and prescribe a term of years during which we should have an assured breathing space for a definite period.

58. *Reserved Areas: Discussion of May 25: Minister for Foreign Affairs offers Shanghai for Maximum of Ten, and Tientsin for Five Years.* On the 25th May, Dr. Wang and I once more embarked with Mr. Teichman in the latter's

motor launch, 'Wanderer', and continued our discussions for three or four hours on the river. I put up an amendment to my previous draft, with a view to finding a wording which would to some extent meet Dr. Wang's object of a time limit and also improve the draft from our point of view by stipulating for a definite minimum breathing space of five years and linking up the termination of that period with the outcome of the negotiations which were to be entered upon within that period. We discussed this draft on and off for four hours, relieved at intervals, when the atmosphere became too strained, by small talk and excursions on shore. At a suitable moment, and in response to Dr. Wang's specific enquiry, I gave him to understand that, if he would accept our draft, I should be prepared to recommend to you the dropping of the reserved area at Hankow, again subject to all outstanding points being settled to our satisfaction. He insisted, however, returning to and repeating the point again and again, that he could not possibly accept anything on the lines of our draft because there was no definite time limit; if the negotiations provided for had no result, extraterritoriality would continue indefinitely at Shanghai; and to that neither he nor any other member of the Chinese Government could ever agree. Again at the appropriate moment I sprung on him the suggestion that we should cover the whole proposition with a final time limit of *ten years*, the duration of the whole treaty. He rose gradually, but insisted that, to justify his action *vis-à-vis* Chinese public opinion, there must be a clear-cut differentiation between Shanghai and Tientsin both as regards period and area; in the case of the former, the special circumstances attending the existence of the International Settlement were recognised; in the case of the latter, there were only Concessions, to the early recovery of which his Government were irrevocably committed. At length, after endless haggling and argument, I induced him to make the following final offer: The Greater Shanghai area (which includes the harbour down to Woosung) to be excluded for a minimum of five years and, subject to a negotiated settlement in the meantime, for a maximum of ten; an area at Tientsin, covering the Concessions and ex-Concessions and any really necessary neighbouring Chinese territory (but not the whole Chinese municipal area), to be excluded for five years. Again I refrained from committing myself, but I considered that, if we could incorporate this offer in a satisfactory text, we should have secured what we wanted, and indeed in a better form than our own original formula. It seemed impossible that any Chinese Government could now, after all that had passed since April 1929, be induced to bind themselves to the *indefinite* continuance of extraterritoriality at Shanghai. If things went well, and the political situation in China were stabilised, a solution of the Shanghai problem should, it seemed, be worked out in five years; if not, we had a further extension of time till 1942, which was as long as we could expect any modern Chinese Government to bind themselves to. In the case of Tientsin, we should have an assured breathing space of five years in which to make the necessary adjustments for the termination of extraterritoriality rights.

59. *Reserved Areas: Discussion of May 26: Minister for Foreign Affairs withdraws*

his Offer of May 25, and proposes Five Years for each Place. On the morning of the following day, the 26th May, I sent to the Minister for Foreign Affairs a new draft, which embodied his offer of the day before, but, as a tactical move, in a rather improved form. He was out attending a meeting of the Cabinet, at which the question of his offer was being discussed, and did not receive my letter till after midday. He then requested me to come and see him, suggesting another river cruise (which assured us complete privacy and freedom from interruption and the favourable atmosphere of intimacy so necessary on these occasions). We accordingly embarked again, the same party of three, Dr. Wang, myself and Mr. Teichman. Once under way, Dr. Wang broke it to me that, despite his utmost endeavours, his Government had turned down the offer he had made to me on the previous day; his colleagues had insisted absolutely that they could not go beyond a limit of five years for Shanghai and three for Tientsin, while he had urged the terms of his own proposal; the matter had then been referred to the President himself, who had finally decided on five years for each place; and that was the final offer which he, as Minister for Foreign Affairs, speaking on behalf of his Government, could now make to me, and no more. I was constrained to use very plain language, and emphasised that my position had become an impossible one; I had been trapped into showing my hand and considering an offer which was in itself possibly further than I should have gone, and on which he had now gone back; I refused absolutely to consider his new proposal; in the circumstances the conditional offer to drop Canton and Hankow would lapse, and we should find ourselves in the position of pausing, abandoning the lead, and waiting for him to bring the other Powers into line—and I wished him joy of the task. Dr. Wang expressed great regret, but said he could do no more, and concurred that the discussions had better be wound up. While plainly showing my indignation, I kept him in play, imagining that his move might to some extent be the usual Chinese 'try-on'. At this point, since there seemed nothing more to discuss, the launch was swung round to head for home, a manoeuvre which was not lost on Dr. Wang, who gradually came round to discussing and criticising the terms of my draft, which, he complained, went further than his offer of the day before. Imperceptibly we found ourselves once more discussing this offer, with its ultimate limit of ten years, and the manner in which it could best be worked into a revised draft. The launch was run ashore, and we there and then sat down to draft an amended text on which we were eventually able to agree. Dr. Wang said (without any explanation of his changed attitude) that he would return to the charge with his colleagues and the President with this draft. He also suggested that Mr. Hsu Mo and Mr. Teichman should meet and try to find common ground in redrafting the attached exchange of notes.

60. Reserved Areas: Final Discussion of May 27: Maximum of Ten Years for Shanghai and Five for Tientsin tentatively agreed to. On the morning of the following day, the 27th May, Mr. Teichman met Mr. Hsu Mo, and was able to reach agreement with him on the text of the exchange of notes, as though no deadlock had been reached in regard to the main article. In the afternoon

Dr. Wang asked me to see him again privately. We now had before us our joint draft of Article 16, as prepared with his own collaboration on the river the day before, and a draft of the attached exchange of notes agreed upon between Mr. Teichman and Mr. Hsu Mo. The draft article provided for the exclusion of Shanghai for five years, for the initiation of negotiations within those five years on the subject of the arrangements to be made at the end of that period, and, in the absence of a settlement by negotiation and agreement, for the continuance of extraterritoriality at Shanghai for another five years, until its final termination after ten years in all; Tientsin to be excluded for five years and no more; and British subjects in the reserved areas to pay regular Chinese taxation. The attached exchange of notes provided, on our side, in the same formulæ as before, for negotiations regarding the Shanghai extra-Settlement roads and the rendition of the British Concession at Canton, and, on the Chinese side, that the jurisdiction of the British courts in the reserved areas would continue in force, and, wrapped up in phraseology to meet Chinese susceptibilities, that British subjects in foreign (non-British) Concessions would enjoy all such exemptions from Chinese jurisdiction as might be enjoyed by the nationals of any country. Without further argument Dr. Wang accepted these drafts, but somewhat equivocally. He proceeded to explain that, while he was glad to say that his colleagues, including the Minister of Finance, who had previously been the principal stumbling-block, and the President, were now more favourably inclined, the latter was much exercised regarding the attitude of the Chinese Minister in Washington, and anxious lest, if the terms of Article 16, as now drafted, came through him to the knowledge of the Canton leaders, it might be used as a weapon against the National Government. He therefore suggested that, if and when everything else was disposed of, we should initial all the other articles and attached documents, and leave Article 16 outstanding, subject to a sort of 'gentlemen's agreement', that, so far as he, Dr. Wang, was concerned, and as long as he remained Minister for Foreign Affairs, the article in its present form would be accepted in due course; or, alternatively, that we should initial none of the articles, and, having reached this stage of practical agreement, let the whole thing stand over for the time being.

61. *Suggestions for exchanging Copies of Agreed Texts: Aggravation of Internal Chinese Political Crisis.* I refrained from immediate comment, saying I must have time to consider this novel situation. Subsequently we explored the possibility of covering the point by private written assurances of some kind, and decided to meet later in the day with our respective experts, Mr. Teichman and Mr. Hsu Mo, in attendance. At this later meeting, we eventually agreed (on my side *ad referendum* to you), after much confused argument (because the real point at issue was by no means clear), that, if and when final agreement on all points had been reached, we should exchange copies of the whole draft treaty and attached documents, and that we should cover this procedure by an exchange of unofficial letters stating that the drafts were acceptable to each of us and were being referred for confirmation to our respective Governments. This appeared to me the best course to follow;

since, on the one hand, it would to some extent clinch the bargain and confirm as between us the work accomplished; while, on the other hand, it would provide the necessary degree of elasticity to permit of His Majesty's Government now sitting back and awaiting political developments. It was, indeed, becoming increasingly desirable that we should be able to wind up our work and see what was going to happen in the conflict which was now developing between Canton and Nanking. Practically all the important Cantonese members of the National Government had left Nanking to join the recalcitrant Southern leaders at Canton, where plans were being laid for the establishment of a rival National Government under Chen Chi-tang, Sun Fo, Eugene Chen, Wang Ching-wei, and the Kuangsi generals; so that the clouds of another serious civil war appeared to be rapidly gathering.

62. *Ratification Article left Outstanding.* During my final discussions concerning Article 16 with the Minister for Foreign Affairs on the 27th May, I had been able to secure his agreement to all the minor outstanding points; so that when, after our last meeting on that day, he left for a few days' visit to Shanghai, where he had business to attend to, the whole draft treaty and attached documents had been disposed of, subject to your approval of the formula for the reserved areas, with the exception of the last Article 22, containing the provisions for ratification, on which I was still awaiting your instructions. These instructions reached me on the 30th May. You pointed out that the treaty created no legal obligations until it was ratified, and that the conditions on which and the circumstances in which His Majesty's Government would be prepared to ratify being matters within their own discretion, it would be sufficient, to avoid charges of moral bad faith, if we recorded separately at the time of signature the essential conditions for ratification, namely, that His Majesty's Government would have to be satisfied that the Chinese Government were able to give effect throughout China to the terms of the treaty, and that the Chinese Government should equally have concluded agreements for the modification or abolition of extraterritorial rights with all the other Powers parties to the Washington Treaty of the 6th February, 1922. This reservation could, it was suggested, be placed on record in a unilateral note addressed by me to the Chinese Government at the time of signature, which would not be published, so that we could recede from its terms if we considered when the time came that it was desirable to do so. I placed this proposed solution of the ratification question before the Minister for Foreign Affairs on the 1st June. After some pressing Dr. Wang admitted that His Majesty's Government necessarily retained full discretion as to whether they ratified or not, and that the points in question would naturally be taken into consideration when the time for ratification arrived. He objected, however, very strongly to our putting in a written note in the terms proposed, and especially to the second proviso. If the note meant anything at all it would be bound to come out sooner or later, when his position, in having accepted such a note, in the face of his attitude towards the points raised therein, would be an impossible one. He adduced many other arguments why he could not agree to such a proposal, including the argu-

ment that His Majesty's Government were in any case covered by the provisions against discrimination in Article 18. I pointed out that he could not prevent me putting in such a note at the time of signature, if I was instructed to do so. I reminded him of the similar reservation made in connexion with the ratification of the Weihaiwei Rendition Convention, and illustrated my point by a reference to the present situation as between Nanking and Canton. As regards the second proviso, whatever he might say, the fact remained that China might be unable to enforce jurisdiction over the nationals of certain Powers with whom she had failed to conclude agreements (this produced the usual heated retort that the Chinese Government and people would somehow or other find means for doing so). In any case His Majesty's Government could not possibly forgo a reservation on these points, which would probably be raised in Parliament in the debate on ratification. Eventually Dr. Wang threw out a hint that he would not object to a verbal notification in the sense proposed. As there was nothing to be gained by pursuing the matter further, we left it at that for the moment. Subsequently I received your further instructions that it would be sufficient if, when we came to exchange agreed copies of the draft treaty, I informed Dr. Wang verbally that, under my then existing instructions, I would at the time of the signature of the treaty address him a note in the terms proposed. I informed Dr. Wang accordingly at our interview on the 5th June. He did not seriously demur, and the matter was thus disposed of for the time being.

63. *Maps attached to Article 16.* At this interview on the 1st June we also had a brief discussion on the subject of the maps of the reserved areas at Shanghai and Tientsin referred to in Article 16. It will be recalled that our original proposals provided for 10-mile zones round the customs-houses at the ports in question. This method of handling the matter was very strongly objected to by the Chinese, not only on account of the area taken in, but also because the idea of *zones* savoured too much of the leased territories and railway zones of the 'unequal treaties'. Mr. Teichman therefore hit on the ingenious alternative of taking the Chinese municipal areas, which embraced the cores of foreign-controlled Settlement and/or Concessions as the case might be, the native cities, the suburbs, and considerable surrounding country. The existing Chinese maps of these municipal areas, if accepted by both sides, precluded further controversy and argument as to the areas to be included, and met Chinese susceptibilities by rendering detailed descriptions of the areas in the article itself unnecessary. The Shanghai map, a Chinese map of the municipal area of so-called Greater Shanghai, was accepted without discussion. It embraces an adequate circumference round the International Settlement, the French Concession and the Chinese city, and covers both banks of the river and the harbour down to and including Woosung. I regard the acceptance of this map as eminently satisfactory. The case of Tientsin was not so simple. I had secured a map of the Chinese municipal area, the boundaries of which are, however, still apparently not definitely fixed. Moreover, an important area to the south of the British Concession, embracing part of the racecourse road, the racecourse itself, and the country club,

where numerous foreigners reside, lies outside the limits of the municipal area as depicted on existing maps. Also the Minister for Foreign Affairs had insisted that the Tientsin area should be more restricted than that at Shanghai, a contention which was intrinsically reasonable. For these reasons the relevant sentence in Article 16 had been worded as referring not to the municipal area, but to 'the area at Tientsin shown on the attached map'. We proceeded to an examination of the Tientsin map which had already been discussed by Mr. Teichman and Mr. Hsu Mo. I refrained from committing myself, beyond offering the line of the Grand Canal in the North in return for a suitable extension in the South. The upshot of our conversation was that the Minister for Foreign Affairs offered the Concessions and ex-Concessions and an extension to the South embracing the racecourse area. I did not agree to this, and we may get a little more. But in the last resort this, or something like it, will not be an unsatisfactory solution, since at Tientsin, unlike Shanghai, the foreigners are nearly all concentrated in the Concessions and ex-Concessions and racecourse neighbourhood, and come and go far more between this area and Peking, Peitaiho, and Tongku [?Tangku], than between it and neighbouring areas of the Chinese municipality. Our original proposal, to include the Haiho to Tongku, had already been dropped. Copies of the two maps in question are enclosed.¹⁵ On the Shanghai map the proposed reserved area is that coloured yellow, including in the centre the International Settlement and French Concession. On the Tientsin map I have drawn a line in ink round the Concessions and ex-Concessions and the area in the South tentatively agreed to by the Minister for Foreign Affairs. In the case of both maps the boundaries are largely artificial. But we have got to avoid the idea that anyone overstepping the boundary of a reserved area will render himself liable to instant arrest. People will be going in and out of the areas all the time, and both at Shanghai and Tientsin Chinese police will be functioning in a great part of the areas.

64. *Foreign Office Doubts in regard to Time Limit for Shanghai.* In the meanwhile I had received on the 30th May your views on the proposed method of dealing with the Shanghai problem. In this telegram you expressed your concern at the prospect of fixing any time limit for extraterritoriality at Shanghai instead of its simple exclusion from the treaty and reservation for subsequent negotiation. You pointed out that with such a time limit our hands would be tied in securing in the proposed negotiations the safeguards that we might consider essential; if the future of Shanghai were left open for subsequent negotiation, this would be an added incentive for the Chinese to make the arrangements laid down in the treaty work well, while the actual experience of the working of these arrangements would be a valuable guide as to the safeguards needed in Shanghai. Moreover, the effect of the ten-year limit would be that British subjects in Shanghai would pass under Chinese jurisdiction at the very moment that the treaty itself terminated. Even if we had to contemplate the possibility of Shanghai passing under Chinese jurisdiction within the next ten years it seemed of great importance that there

¹⁵ Not reproduced.

should be an adequate transitional stage extending possibly beyond the period of ten years.

65. *Difficulties in the way of securing Indefinite Exclusion of Shanghai.* These were potent arguments. On the other hand, it was equally to be pointed out that the present National Government could not possibly be induced to agree to exclude the Shanghai area for an indefinite period; that their successors were likely to be more rather than less chauvinistic in their attitude; that a maximum of ten years' life for extraterritoriality in the area of Greater Shanghai was the utmost we could expect to get and that we should be fortunate to secure as much; that the retention by force of extraterritorial rights within the narrow limits of the International Settlement would lead us nowhere; that exclusion for an unnamed period with an undertaking to negotiate within three or five years (in the unlikely event of the Chinese Government, after all, agreeing to our original proposals) might prove dangerous in practice as rendering the position open to attack from the moment the treaty was concluded; and, finally, that the whole theory of indefinite exclusion subject to negotiation rested on the doubtful promise [? premise] that the Chinese Government would ever agree to enter into round-table negotiations with the Powers concerned on the subject of the municipal and jurisdictional arrangements to be made in the Shanghai area; so that there seemed to be some danger of our losing the substance (of a fixed breathing-space) by grasping at this shadow (of a satisfactory settlement to be secured by future negotiation).

66. *Views of Shanghai Joint Committee, His Majesty's Consul-General and Judge Feetham.* In accordance with your instructions, I called for the views of the Joint Committee of the China Association and British Chamber of Commerce at Shanghai, as well as those of His Majesty's Consul-General and Mr. Justice Feetham, who had been engaged for the past year and a half in his investigation of the Shanghai problem, but had not yet presented his recommendations, the nature of which were at this moment still unknown to me and to Mr. Brenan. The Joint Committee expressed the opinion that the terms of the draft treaty were as favourable as could be expected, and that it was better that a treaty should be concluded on such lines rather than that our extraterritoriality rights should go by default in the absence of an agreed settlement. His Majesty's Consul-General concurred in the above opinion, and, with a practical realisation of his own responsibilities, referred to the difficulties of the position we should have to face from a determined attempt to abolish extraterritoriality unilaterally after the 1st January, 1932, with all the hostility on both sides that a series of incidents would create, in view of the fact that we were not, it seemed, prepared to maintain our extraterritoriality rights in China by force of arms (see your despatch No. 303 to Washington¹⁶ of the 7th March). Mr. Justice Feetham, on the other hand, expressed the opinion that the fixing of any time limit for extraterritoriality in Shanghai would definitely be putting a rope round the neck of the Settlement and would be fatal to the future prospects of local self-government there.

¹⁶ No. 366.

These statements were based on the views and recommendations which Mr. Feetham had formulated as the result of his eighteen months' study of the Shanghai problem, namely, that, while the rendition of the Settlement to Chinese control was admittedly the ultimate goal, its realisation should be a matter not of years but of decades; that the present régime of local self-government under foreign control should continue subject to increased Chinese co-operation during the transitional period; that this régime would be impossible without extraterritoriality, and that any time limit for extraterritoriality at Shanghai would therefore destroy in advance the prospects of negotiating an agreement for the continuance of the existing foreign-controlled and extraterritorialised régime during the decades which should elapse before the time was ripe for rendition. The logic of Mr. Feetham's arguments and conclusions was doubtless sound. But his recommendations appeared to ignore the political forces at work in China and to rest on the assumption that we should be able somehow or other to prevail on the Chinese Government to agree to the retention of our extraterritorial rights in the Shanghai area for the period, to be estimated in decades, before the time was properly ripe for the rendition of the Settlement to Chinese control. At the time of writing there is not the remotest chance of any Chinese Government giving such proposals a hearing. Moreover, we have always to bear in mind the position in the Greater Shanghai (extra-Settlement) areas, in which so many British subjects reside, and in which very important British interests, commercial, industrial and shipping, are now concerned; so that, even if His Majesty's Government were to take their stand on Mr. Feetham's recommendations so far as concerns the International Settlement, we should, failing an agreement with the Chinese Government, risk seeing extraterritorial rights go by default outside its immediate boundaries.

67. *Final Discussion, June 5: Duration Article.* Having thus secured, as instructed, the above expressions of opinion on the part of those most intimately concerned on the subject of Article 16, I awaited your instructions. These were received on the 5th June, and I arranged to see the Minister for Foreign Affairs in the afternoon of the same day. Under these instructions I was authorised to exchange copies of the draft treaty and attached documents, together with covering letters on the lines proposed—see paragraph 61 above. At the same time I was instructed that the duration article (21) was to be worded in accordance with a new text which was telegraphed to me. I presented this new draft of Article 21, explaining to Dr. Wang that I had, hitherto, assumed your approval of this article in the form we had already agreed upon (the main point, which I had gained after weeks of argument, being the duration period of ten years for the treaty as a whole and five years for the special chambers and legal counsellors—see paragraph 51 above); but that I had now at the last moment received this new text, which had been carefully drafted by experts in London and which I requested him to accept. After reading the new text Dr. Wang observed that he feared it was quite unacceptable, as it differed from the previously agreed version in several essential points, most of which had been fully gone into and been disposed of

in our previous discussions. Eventually, I induced him to accept the general form of the new draft and was able to narrow his objections down to the following points: (i) That there was no explicit provision for termination at the end of ten years failing agreement as to revision; (ii) that the clause providing for further five-yearly periods to which he had been unable to agree in our first draft had been reinserted; (iii) that provision had been made for the continuance in perpetuity of Article 18; (iv) that the provision in the previously agreed draft for the non-revival of abrogated clauses in existing treaties had been deleted; and (v) that twelve months had been substituted for six in connexion with giving notice. After some argument I was able to get him to drop the last two points, but was quite unable to move him on the first three. The Chinese are notoriously touchy on this question of duration as a result of their experiences of the duration clauses in the old, so-called 'unequal treaties', and it had only been with the greatest difficulty that I had previously induced Dr. Wang to agree to a period of ten years. Nor did I, in fact, feel my case to be a good one, for the new text appeared designed, so far as concerned the clauses in dispute, to reproduce that very ambiguity in regard to duration after the expiry of the first ten years, which had been such a thorn in the side of the Chinese Government in securing the revision of the old treaties. Under no circumstances will any Chinese Government agree at the present time to the *indefinite* duration of any treaty provisions granting special privileges to foreigners. This is one of the most fundamental points in their present foreign policy and their drive against the old treaties. I therefore in the end agreed to meet Dr. Wang on his first three points, and we amended your draft text accordingly. I warned Dr. Wang that in accepting these amendments I was acting on my own responsibility. In doing so I was guided by the feeling that the time had arrived when it was essential (in view *inter alia* of developments at Canton where Mr. Eugene Chen as Minister for Foreign Affairs of a rival Government had already appealed to the Powers to withdraw recognition from Nanking) for me to leave the capital and wind up these long-drawn-out negotiations, either by breaking them off or by exchanging the agreed texts without further delay. I considered therefore that it was most undesirable to risk further indefinite delay by referring these points again to the Foreign Office, while I felt that we were to some extent to blame for this last minute *impasse* by introducing alterations of substance in regard to points on which we knew the Chinese could not in fact meet us. In any case the texts were only being accepted *ad referendum* to our Governments, so that any really essential changes could still be made.

68. *Discussion on June 5: Minister for Foreign Affairs' Final Reservation on Article 16.* After we had disposed of the last outstanding point in connexion with the ratification Article 22 (see paragraph 62 above) I turned to the final question of the exchange of copies of the agreed texts and covering letters (see paragraph 61) and I informed Dr. Wang that I was now authorised to proceed on the lines proposed; and I hinted at the desirability of winding matters up as soon as practicable in view of the possibilities of trouble arising in connexion with the establishment of the new Government at Canton.

Dr. Wang said he also was prepared to exchange the letters, but he desired to make some remarks on the subject of Article 16. It would not be fair to me if he did not state that he was having great difficulties with his colleagues in the Government in connexion with this Article, which might not be confirmed in its entirety, with special reference to the reserved area at Tientsin; in fact he hinted plainly that the Article would go through if Tientsin were dropped, but that otherwise it might not do so. I was prepared for this move, since Mr. Hsu Mo had made a similar statement, for my information, in private conversation with Mr. Teichman on the 3rd June, and the point had also been raised by the Chinese Minister in London on the 4th June. Mr. Teichman had replied that there was not the remotest prospect of His Majesty's Government, who were by no means satisfied with the terms of Article 16, giving way over the reserved area at Tientsin; and I now took the opportunity of reading to Dr. Wang your telegram No. 141, Tour Series, of the 5th [4th] June, 1931,¹⁷ in which you informed me of the reply given to Mr. Sze in London, namely, that His Majesty's Government could not go beyond the position stated by me in the course of the negotiations, that they had gone to the greatest lengths in meeting the wishes of the Chinese Government, and that as far as they, His Majesty's Government, were concerned, the limit of concessions had been reached.

69. *Texts of Draft Treaty exchanged on June 6.* On the following day, the 6th June, the texts of the draft treaty and attached documents and the covering letters were exchanged, the latter stating that the drafts were acceptable to us and were being referred to our respective Governments. Thus, after almost exactly three months of intensive negotiations, an agreement *ad referendum* has been reached, but in the shadow of a new civil war, and with two crucial Articles—16, concerning the reserved areas, and 21, concerning duration, not finally disposed of. But whatever the future may hold in store, we have, at any rate, on record, as accepted by the Minister for Foreign Affairs of the National Government and myself, a fair and reasonable draft treaty settlement of the vexed question of jurisdiction on which we can take our stand and with which we can meet any future threats of unilateral abrogation of our extraterritorial rights. In the meantime we can sit back and await developments in the internal political situation, with an eye on the date, the 1st January, 1932, on which, according to their latest mandate, the Chinese Government intend taking jurisdiction over all foreigners. As aptly stated in your despatch to His Majesty's Ambassador at Washington, No. 303 of the 7th March last, 'the true criterion is not whether the Chinese are fit to assume jurisdiction over foreigners, but whether they are politically sufficiently stabilised to give effect to their determination to put an end to the extraterritorial system'.

70. *Agreed Texts: Comments on: Difficulties over Reciprocity.* I had the honour in my despatch No. 157, Tour Series,¹⁸ dated Nanking, the 6th June, to enclose copies of the covering exchange of letters and of the texts of the draft treaty and attached documents, the former consisting of a preamble and twenty-

¹⁷ No. 456.

¹⁸ No. 458.

two articles, and the latter comprising three declarations by the Minister for Foreign Affairs regarding the Chinese courts and the legal counsellors, two exchanges of notes concerning Articles 8 and 16, two notes from the Minister for Foreign Affairs to me regarding translations of legislation and miscellaneous matters, an unpublished letter on the subject of the Chinese arbitration law, and an unpublished agreed minute, the latter incorporating a number of verbal assurances which Dr. Wang for various reasons could not be induced to put in writing. It will be noted that the drafts cover practically all the provisions of the British-American draft of September 1930, except for the major safeguards concerning evocation, foreign co-judges, the reservation of criminal jurisdiction, and the excluded areas, which the Chinese Government refused from the outset to consider in their original form, and which, in accordance with my main instructions issued in March, were to a greater or less extent progressively abandoned to secure satisfaction on other points. On these other points the present texts are in many respects an improvement on our original draft of last September. I have refrained in this report, which is already swollen to undue size, from any detailed account of the discussions of all the various clauses which eventually resulted in the present agreed draft texts. Copies of the records of these discussions were in most cases forwarded to you at the time.¹⁹ Pursuing, as we did, the line of least resistance in our attempt to build up an agreed treaty on a gradually broadening basis of common ground, and thus taking the less contentious points first, we naturally found our task becoming more and more difficult as we progressed, until for the last few weeks the negotiations were concentrated entirely on a few outstanding points, and mainly on the question of the reserved areas at Shanghai and Tientsin, and it is for this reason that greater attention is paid in this report to the details of the negotiations concerning the later and more contentious, but not in every case more important, articles. Indeed, practically every clause in the treaty involved interminable argument and wrangling and references backwards and forwards, more especially (apart from the later articles dealt with in greater detail in this report) the provisions concerning transfer of jurisdiction, legal counsellors, safeguards in connexion with arrests, imprisonment and trial, guarantees in regard to taxation, arbitration arrangements, rights in immovable property, rights of companies, and shipping immunities. At an early stage in the proceedings we encountered difficulties in connexion with national and most-favoured-nation treatment and reciprocity, for, though we were admittedly not negotiating a treaty on the basis of 'reciprocity and mutuality', nowadays so dear to the Chinese heart, but making special arrangements for a transition period covering the abandonment of extraterritoriality rights, yet there were many points on which we found it difficult to avoid raising the question of reciprocity, or, rather, on which we were unable to get what we wanted without the bait, or excuse, of reciprocal treatment. Unfortunately, it was ascertained that in most of these cases concerning legal or quasi-legal matters, while practical reciprocity for Chinese in British territory existed, His

¹⁹ Not printed.

Majesty's Government in the United Kingdom was unable for technical reasons to grant full reciprocity. For this reason the reciprocal clauses are on our side mostly worded on lines of most-favoured-nation treatment. Another difficulty over reciprocity arose in connexion with the Dominions and their varying laws. It was for this reason that we had to induce the Chinese Government—and fortunately we were able, after much argument, to do so in the case of this particular treaty—to accept reciprocity provisions confined to the United Kingdom, though it was from the outset understood that the treaty should be signed on behalf of, and its benefits enjoyed by, all parts of the British Empire. The Chinese negotiators were fully alive to these points, and it was no easy matter to get them to accept our solutions. For convenience of reference, an index to the paragraphs of this report is attached.²⁰

71. *Appreciation of Mr. Teichman's Services.* I cannot close this despatch without once more bringing to your notice the admirable services of Mr. Teichman. Throughout the long-drawn-out and highly involved discussion he has been a veritable tower of strength. It is no exaggeration to say that without his ingenuity, his unfailing patience and his unflagging energy and resource we should never have achieved the results that we have done. I desire formally to record my deep sense of gratitude to him.

I have, &c.,

MILES W. LAMPSON

²⁰ Not printed.

CHAPTER VII

Discontinuation of Anglo-Chinese negotiations for the surrender of British extraterritorial rights in China (June 12, 1931—January 11, 1932)

No. 461

Sir M. Lampson (Peking) to Mr. A. Henderson (Received June 13, 9.0 a.m.)
No. 175 Telegraphic [F 3424/34/10]

PEKING, June 12, 1931¹

Your telegram No. 195.²

When discussing with Minister for Foreign Affairs, June 6, the nature of statement to be issued he proposed we should say that agreement had been reached on all points save one (referring to Article 16) and would I think, even have been prepared to say, general agreement had been reached and results referred to respective Governments for confirmation. I pointed out that to do this would be to invite denunciation from Canton (see Canton telegram No. 43 to Peking³). I also had in mind situation *vis-à-vis* my colleagues concerned. Americans have had all agreed texts; French and Japanese so far only those referred to in my telegrams, tour Nos. 142 and 153⁴. I was now proposing to communicate to them remaining Articles (but not attached documents) except Articles 16 and 21; I proposed to withhold last two in view of Dr. Wang's attitude to former and I hope as regards your attitude towards latter. I was also a little uncertain about communicating 15 to Japanese lest they should scare the Chinese off it by seeking to use it to confirm their rights under 1915 treaty; but I had decided to ignore the point.

2. I should have thought it might have been sufficient to confine statement in House of Commons to something on lines of communiqué contained in my telegram No. 259⁵ with additional explanations that His Majesty's Government were awaiting my full report and outcome of present internal political crisis in China.⁶ But if it is desired to say more I suggest I be informed of the nature of statement you would wish to make when I would

¹ The time of despatch is not recorded.

² No. 459.

³ Not printed.

⁴ Not printed. Sir M. Lampson was authorized in Foreign Office telegram No. 206 to Peking of June 18 to inform his French and Japanese colleagues orally of the manner in which his extraterritoriality negotiations were wound up.

⁵ No. 457.

⁶ For Mr. Henderson's statement to this effect in the House of Commons on June 15 see Parl. Deb., 5th ser., H. of C., vol. 253, col. 1411.

seek to secure Dr. Wang's concurrence through His Majesty's Consul-General at Nanking. I do not think that he will mind how specific it is as long as it does not commit him too much to Article 16.

Repeated to Diplomatic Mission.

No. 462

Mr. A. Henderson to Sir M. Lampson (Peking)

No. 208 Telegraphic [F 3379/34/10]

FOREIGN OFFICE, *June 19, 1931, 5.30 p.m.*

Some of your telegrams on the final stages of extraterritoriality negotiations were delayed in transmission and the last was nearly a week on the way. I wish to express my appreciation of the admirable way in which you have conducted negotiations and the success you have been able to achieve. Please convey also to Mr. Teichman my appreciation of all his excellent work.

I fully realise that you had no alternative but to wind up the negotiations as you did without delay. It is regrettable of course that we were not able to secure perpetuity as regards most-favoured-nation treatment as this may constitute a difficulty for us in the future, but in the circumstances this could not be helped.

No. 463

Sir M. Lampson (Peking) to Mr. A. Henderson (Received June 19, 9.30 p.m.)

No. 182 Telegraphic [F 3531/34/10]

PEKING, *June 19, 1931*¹

My telegram No. 181.²

I was informed by United States Minister through His Majesty's Consul-General, Shanghai, on June 12 that he had received formal request from Chinese Government for transfer of extraterritoriality negotiations to Nanking. He now states State Department, to whom request was referred, prefer to continue negotiations at Washington.³

Repeated to Washington.

¹ The time of despatch is not recorded.

² Not printed.

³ The United States Minister had informed Sir M. Lampson on June 12 of Dr. Hornbeck's conversation of June 6 with Dr. Wu: see *Foreign Relations of the United States 1931*, vol. iii, pp. 873-4. Sir M. Lampson was further informed by Mr. Johnson on June 26 that 'extraterritoriality negotiations will be continued in Washington where it is hoped to reach a tentative agreement on all clauses except reserved areas which will be left for the United States Minister to deal with finally in Nanking'.

*Mr. A. Henderson to Sir M. Lampson (Peking)**No. 212 Telegraphic [F 3558/34/10]*FOREIGN OFFICE, *June 22, 1931, 8.45 p.m.*

Following is text referred to in my immediately preceding telegram.¹

By the end of May political developments in China, connected with the separatist movement at Canton, made it desirable to wind up the negotiations without proceeding actually to the point of signature of a Treaty. His Majesty's Minister and the Chinese Minister for Foreign Affairs accordingly arranged on the 6th of June to report the results so far achieved to their respective Governments. The position now therefore is that as soon as political conditions in China permit of the question being taken up again very little remains to be done in order that the Treaty may be ready for signature. Nevertheless as the negotiations are not yet concluded it would not be in the public interest that I should make any public statement in regard to the results achieved. The British interests primarily concerned with the retention of adequate safeguards for the pursuit of trade with China, notably the China Association and the Manchester Chamber of Commerce in this country as well as the British Community in Tientsin and the China Association and British Chamber of Commerce in Shanghai, have been informed in confidence of the general terms of the instructions with which His Majesty's Minister has from time to time been furnished, and they seem on the whole reasonably satisfied that the position taken up by His Majesty's Government is consistent with the due protection of essential British interests.

On the 6th May in a statement I made in answer to questions in this House I indicated that the question of the reserved areas was proving an obstacle to the speedy conclusion of the negotiations. It is generally agreed that there are certain areas in China where an immediate transfer of jurisdiction to Chinese Courts would cause so great a disturbance in existing institutions—administrative as well as judicial—that grave injury would be inflicted on the economic interests of the nationals of every Power and not least on those of the Chinese themselves. The temporary exclusion of these areas from the operation of the proposed Treaty seems to be the only solution of this difficulty. I am glad to say that the Chinese appear to recognise the reasonableness of the position that we have taken up in this matter. While the negotiations are yet unfinished I cannot enter into any details but the results so far achieved on this question of the excluded areas are considered to be satisfactory by those individuals, representative of the interests most nearly concerned, who, as I have already told the House, have been consulted in confidence. In making these observations I desire to assure the House that I have in mind particularly the vast agglomeration of the vested interests of all nations that is centred in Shanghai. In the case of Shanghai, more per-

¹ Not printed. This telegram enquired whether Sir M. Lampson would have any objection to a statement being made in Parliament in the terms of the present telegram.

haps than in the case of any other of the proposed reserved areas, negotiations on this subject of extraterritoriality are likely to have a direct effect upon the future status of the municipal administration established there. The final solution of the problem cannot be found by Great Britain alone in negotiation with China but demands the collaboration of the other Powers principally concerned. The facts of the very complicated situation at Shanghai have recently been set forth with admirable lucidity in volume I of Mr. Justice Feetham's Report. His recommendations are contained in volume II which has just been published. The facts were in the main already known to His Majesty's Government: the recommendations will be carefully considered before any Treaty is signed.

His Majesty's Government are satisfied with the general position at the present moment. They have asked for fair and reasonable safeguards and they have found the Chinese Government willing to meet this demand in a fair and reasonable spirit. It might perhaps have been more satisfactory if Sir M. Lampson could have actually signed the proposed Treaty, but it must be remembered that extraterritoriality cannot be abolished until other Powers have also conducted their negotiations to the point of signature. It is to the advantage of British interests in China that China should obtain reasonable satisfaction of her aspirations in regard to extraterritoriality. The object of our policy has been to facilitate a satisfactory settlement by negotiation of the extraterritoriality problem. Perhaps therefore a pause at the point we have now reached in our negotiations may be an advantage rather than otherwise. Other Powers will be able to take stock of the situation. They will be able to appreciate the value of the results we have already achieved and when the political situation in China is such as to allow her once more to go forward on this road it may be possible for all the Powers to go forward together and reach a complete solution at any rate for the time being of this most difficult problem.

No. 465

Sir M. Lampson (Peking) to Mr. A. Henderson (Received June 26, 12 noon)

No. 193 Telegraphic [F 3634/34/10]

PEKING, June 26, 1931, 4.28 p.m.

Your telegram [No.] 212.¹

I do not like some of the passages about reserved areas. I have no objection to general tenour of these, if you are satisfied (I am not) that they are not leading later on to recriminations both here and at home seeing at the time of your statement in House of Commons of May 6² it was most unfortunately allowed to leak out at home that His Majesty's Government were insisting on exclusion of all four ports. Proposed statement gives impression that still

¹ No. 464.

² See No. 418, note 1.

is so. But is it? If not some alternative seems required to be honest to the public.

Apart from above general observation the British community at Tientsin not to mention communities at Hankow and Canton know nothing of proposed terms of Article 16 and I would most strongly urge deletion or amendment of sentence beginning 'while negotiations are yet unfinished' and ending 'consulted in confidence'. This sentence if included will only lead to recriminations and possibly even to denial locally. I should also like to cut out the preceding sentence 'I am glad to say that Chinese' etc., because it seems to me misleading and also might embarrass Dr. Wang.

While I cannot say for certain how Minister for Foreign Affairs will take such a statement generally I hardly think it necessary to consult him about it.

No. 466

Sir M. Lampson (Peking) to Mr. A. Henderson (Received July 1, 9.0 a.m.)
No. 195 Telegraphic [F 3717/34/10]

PEKING, June 30, 1931, 11.32 a.m.

Following received from Mr. Aveling No. 35, June 25. Begins.

Japanese Chargé d'Affaires informed me yesterday afternoon that some ten days ago he had communicated a draft of extraterritoriality treaty to Minister for Foreign Affairs. Draft which was an elaboration of Japanese memorandum copy of which had already been given us (see Foreign Office despatch 244 to Peking¹) followed roughly the line of Anglo-American draft submitted to Chinese Government. Principal difference lay in the fact that whereas we had stipulated exclusion of Shanghai, Tientsin, Hankow and Canton, Japanese draft provided for exclusion of South Manchurian Railway Zone, Tsingtao and all Concessions and Settlements Japanese, foreign and international.

2. He did not anticipate that Chinese Government would agree to exclusion of all these areas but in demanding their exclusion Japanese Government had allowed themselves scope for bargaining in the course of the negotiations.

3. No negotiations on the basis of Japanese draft have yet taken place with the Minister for Foreign Affairs.

¹ See No. 373, note 4.

No. 467

Sir M. Lampson (Peking) to Mr. A. Henderson (Received July 22)
No. 923 [F 4026/34/10]

PEKING, June 30, 1931

His Majesty's Minister, Peking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs and with reference to his

despatch No. 112 Tour¹ of May 7 transmits herewith copies of despatch No. 51 from His Majesty's Consul-General at Hankow regarding Extraterritoriality.

¹ Not printed. This despatch transmitted texts of the Mandate, statement and regulations issued on May 4: see No. 417.

ENCLOSURE IN No. 467

Mr. Russell Brown (Hankow) to Sir M. Lampson

No. 51

Copy to Diplomatic Mission.

HANKOW, June 22, 1931

Sir,

I have the honour to report that today's Hupeh 'Chung Shan Pao' contains the text of an order from the Office of the Generalissimo (this must be the Hankow Office, but is not stated) to the Garrison Commander in regard to the assumption of jurisdiction over all foreigners on January 1st, next. This communicates for information and guidance various details in twelve clauses regarding the new arrangements that will then come into force. The twelve clauses contain nothing which calls for special comment and they have, I think, already been published in the foreign press in Shanghai. They start with the definition of foreigners as those enjoying extraterritorial rights on December 31st, 1929, deal with the establishment of special Courts at certain places, the right to have lawyers and interpreters, appearance in Court within twenty-four hours, arbitration and police offences etc.

2. The last clause Article 12 states that the date of coming into force of the new arrangement and period of enforcement will be fixed by Mandate of the National Government. On the surface therefore nothing has yet been altered. My object in drawing attention to the publication locally of this order is to state that it is evident from the newspaper that the new arrangements are being circularised to Chinese Government offices in a wide manner and that I have little doubt that, in the absence of further instructions between now and the end of the year, Chinese Government offices, such as police stations, will consider these arrangements to have come into effect on January 1st next and act accordingly, despite any suspensory effect that there may appear to us to be in Article 12.

I have, &c.,
W. RUSSELL BROWN

No. 468

Sir M. Lampson (Peking) to Mr. A. Henderson (Received July 4, 9.0 a.m.)
No. 211 Telegraphic [F 3766/34/10]

PEKING, July 4, 1931, 12.20 p.m.

Extraterritoriality and Feetham Report.

I have received through His Majesty's Consul-General Shanghai copy of telegram¹ from joint committee Shanghai to China Association London dated June 26 urging on His Majesty's Government the importance of reviewing in the light of Feetham's report question of extraterritoriality negotiations. You will doubtless have received copy from China Association. Messrs. Calder Marshall, Leslie, Porter, and Massey have addressed letter to His Majesty's Consul-General explaining that telegram represents a resolution passed without a dissentient voice and that opinion expressed by them on May 30 as reported in Shanghai telegram No. 27 to me of May 31 [30]² was given in their individual capacity and not as representatives of any body or association and that this opinion was based on information and documents contents of which they were pledged not to divulge; copy of correspondence follows by post.

I have nothing to add to my previous comments. It all turns on what we can induce the Chinese to agree to and what action we may be prepared to take to maintain our rights if no agreement is reached—once more see your despatch No. 303 to Washington³ which I have throughout had to regard as my final gospel.

¹ Not printed: see below.

² Not printed. See No. 449, note 5.

³ No. 366.

No. 469

Sir M. Lampson (Peking) to Mr. A. Henderson
(Received July 5, 10.30 a.m.)
No. 213 Telegraphic [F 3767/34/10]

PEKING, July 5, 1931, 1.15 p.m.

Following received from Mr. Aveling No. 52 of July 4. Begins:—
Foreign Office telegram No. 212 to Peking.¹

Mr. Hsu Mo told me today that Minister for Foreign Affairs understood that Secretary of State was shortly to make a statement in Parliament regarding extraterritoriality negotiations. Chinese Government hoped this statement would be as guarded as possible and that it would be made clear that draft agreement had not yet been accepted by them but merely referred to them for consideration. Government are particularly anxious that as little as possible should be said regarding reserved areas.

¹ No. 464.

2. I replied that I thought any statement made would be of a general rather than detailed nature and suggested that if Chinese Government had any specific points to raise in connexion with Secretary of State's speech they should instruct Chinese Minister in London to approach the Foreign Office. Ends.

No. 470

Sir M. Lampson (Nanking) to Mr. A. Henderson (Received July 31, 9.0 p.m.)
No. 8 Tour: New Series: Telegraphic [F 4235/34/10]

NANKING, July 31, 1931¹

Extraterritoriality.

United States Minister has communicated to me for my comments State Department's re-draft of Article XVI with covering memorandum which he states have been transmitted to London.²

2. I am replying that I think re-draft is an admirable one from our point of view. Whether Chinese can be induced to consider it is another matter! I am however suggesting that the wording that 'treaty shall not be applicable within the area of Greater Shanghai' may be objectionable; I considered precisely the same point when our negotiations were in progress; it is only transfer of jurisdiction and not all the provisions of the treaty (including assurances against discrimination and exactions of valid titles etc.) which we desire should not apply in reserved areas.

3. I have also said that I am definitely against proposed bargain over Tientsin, and have added anything I say must be regarded as a purely private and personal expression of opinion as I have not yet had any instructions on the subject and the whole question of Article XVI is now before His Majesty's Government.

Repeated to Peking.

¹ The time of despatch is not recorded.

² For this memorandum and redraft see *Foreign Relations of the United States 1931*, vol. iii, pp. 890-3.

No. 471

Sir M. Lampson (Peitaiho) to Mr. A. Henderson (Received October 20)
No. 1220 [F 5900/256/10]

PEITAIHO, August 20, 1931

Sir,

I have the honour to transmit herewith a copy of a despatch from Tientsin¹ enclosing a letter¹ from the chairman of the Advisory Committee covering a document entitled 'A Further Report on the Government of the British Municipal Area', drawn up by the members of that committee.

¹ Not printed.

2. It appears that the members of the Tientsin Committee, having read Judge Feetham's report on, and recommendations for the future of, the International Settlement at Shanghai, have felt impelled to record their view that Mr. Feetham's conclusions are equally applicable to Tientsin; they draw attention to the absence of the rule of law and the continued political instability in North China and to the evils of Kuomintang interference in local affairs at Tientsin; and they urge that, in these circumstances, the draft agreement of 1927 modifying the status of the British Municipal Area at Tientsin goes too far, and that the steps already taken towards eliminating discrimination against Chinese residents in municipal affairs may be regarded as fulfilling the spirit of the declaration made by His Majesty's Government in 1927 in regard to their willingness to modify the status of British Concessions in China. In brief, the committee urge that, in existing conditions in China, the *status quo* should be maintained in regard to the British Concession at Tientsin.

3. Although some of the arguments adduced and points made may not be strictly relevant, the Committee's report is, I venture to think, on the whole a well-thought-out statement of the case, moderately and reasonably expressed. Naturally, they have been impelled by Judge Feetham's report to record their further arguments against the rendition to Chinese control (even in the modified form proposed in 1927) of the British Municipal Area at Tientsin, and, in my view, they make out a good case. Moreover, the authorities of the British Municipal Area at Tientsin have a consistently good and liberal record, of which the International Settlement at Shanghai may well be envious and which it would do well to copy; and they deserve full credit for the sensible and progressive course they have followed in seeking to establish a joint municipal administration on a basis of genuine Sino-British co-operation and for the loyal manner in which they have tried to implement what they have understood to be the policy of His Majesty's Government.

4. When it comes, however, to the future, one is driven to take into account other considerations beyond pure arguments on the strict merits of the case.

5. If His Majesty's Government considered it politically expedient, and were prepared to stand firm on our existing rights, there would be no need to give further consideration to the question. But the preservation of the British Concession at Tientsin is only one facet of British policy in China, which aims at the protection of British interests and the promotion of British trade in the Far East. If, then, the preservation of our existing municipal rights at Tientsin, in the face, it is to be presumed, of Chinese national aspirations, is found to run counter to the execution of our major policy (which must of necessity be largely based on securing and retaining the goodwill of the Chinese), the matter assumes a different aspect. While, taking even a strictly local and parochial view of the problem, I should be very doubtful whether the indefinite retention of our rights at Tientsin, *if necessary by force*, would in the long run benefit British trade and property there, or whether the retrocession of the British Municipal Area at the proper time and under proper safeguards would be followed by such disastrous results as

the committee foresee, any more than in the case of Tsingtao, Hankow, Weihaiwei and other retroceded areas. But that must be a matter of individual opinion.

6. Our proper policy in this matter should, I submit, be once again one of evolution and expediency, avoiding any cut-and-dried plan and suiting our actions to the force of circumstance. I have so far successfully staved off such half-hearted attempts as the Minister for Foreign Affairs has made to revive a discussion of the Tientsin rendition question; and Dr. Wang has, indeed, intimated that he will first deal with the French and Japanese at Hankow before pressing us further in connexion with Tientsin. I think, therefore, that we should leave it at that for the moment. If and when a serious drive is made over our Concession at Tientsin, it will be for His Majesty's Government to decide whether to discard their 1927 offer and risk the consequences. The question is also to no small extent dependent on the outcome of the extraterritoriality negotiations, with reference to the 'reservation' of the Tientsin area and the period to be set for the retention of extraterritoriality therein. No useful purpose will be served by discussing the matter now on a hypothetical basis, and I prefer to wait until the actual situation arises. In the meantime His Majesty's Government will doubtless be glad to have this further reasoned expression of the views of the Tientsin Committee and will be able to consider the problem pending the time when the question of the rendition of the British Municipal Area at Tientsin is *forced upon our practical attention*.

7. A copy of my reply to Mr. Jamieson's despatch is also enclosed.²

I have, &c.,

MILES W. LAMPSON

² Not printed.

No. 472

Sir M. Lampson (Peking) to the Marquess of Reading¹

(Received September 2, 9.30 a.m.)

No. 316 Telegraphic [F 4727/34/10]

PEKING, September 1, 1931²

My telegram No. 14 of tour series³ from Nanking August 2.

I have now discussed with United States Minister. General gist is as recorded in my telegram No. 8 tour series.⁴

Position now is that United States Minister awaits instructions from

¹ The Marquess of Reading succeeded Mr. A. Henderson as Secretary of State for Foreign Affairs on August 26, 1931, after the resignation of the Labour Ministry of Mr. Ramsay MacDonald and his formation of a National Government.

² The time of despatch is not recorded.

³ Not printed. This telegram referred to No. 470, and stated in particular: 'background of our spring negotiations may conceivably help [the Americans] to get better terms over Shanghai'. Sir M. Lampson added, however, that he thought this was unlikely.

⁴ No. 470.

Washington as result of consultations with London on latest American draft.⁵ As he anticipates that this will take time he is now arranging for visit of his admiral to Peking on September 15 and making no plan yet for proceeding to Nanking.

For my detailed comment on American draft see my despatch 1230⁶ of August 24 via Siberia.

Repeated to Nanking for Mission.

⁵ This draft of July 14, 1931, is printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 893-908.

⁶ Not printed.

No. 473

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 18, 9.0 a.m.)
No. 353 Telegraphic [F 5029/34/10]

PEKING, September 17, 1931¹

Following for Wellesley:—

I am much puzzled as to my course of action. United States Minister seems equally so as to his.

1. Thorburn case.² How far is extraterritoriality issue to be affected by

¹ The time of despatch is not recorded.

² This case was summarized as follows in the annual report on China for 1931 prepared in H.M. Legation at Peking and transmitted under cover of Peking despatch No. 507 of 1932. 'John Thorburn disappeared from his home at Shanghai on the 31st May under mysterious circumstances. A few days later it was reported that a foreigner answering to Thorburn's description had shot two military police who were patrolling the Shanghai-Nanking Railway line near Quinsan, and that the foreigner had been arrested by the military police. The two police subsequently died of their wounds. As a result of enquiries made by His Majesty's Consul-General, Shanghai, there were strong grounds for supposing that the foreigner and Thorburn were one and the same person, but the Chinese civil and police authorities all denied any knowledge of the affair. Investigations were therefore made at Quinsan and Soochow from the 8th to the 16th June by Mr. Vice-Consul A. L. Scott, and the Ministry for Foreign Affairs were at the same time requested to institute an immediate enquiry. Mr. Scott's investigations went to prove beyond all reasonable doubt that Thorburn had, indeed, been arrested for shooting the military police, and removed to Soochow, where he was kept under detention until the 10th or the 11th June, after which dates all traces of his subsequent movements were lost. In response to further representations for the appointment of a commission of enquiry, Dr. Wang stated that the official of the Ministry for Foreign Affairs, who had been sent to investigate the facts, had returned without finding out anything, but that he had now arranged for a fresh enquiry to be conducted by representatives of the Ministry for Foreign Affairs and the Ministry of War. These representatives, who were furnished by His Majesty's Legation with a list of Chinese witnesses and their statements to assist them in their task, left for Soochow at the end of June. A proposal that a British representative should serve on the commission was rejected. On the 16th July Dr. Wang informed Sir Miles Lampson that the commission had reported that no foreigner had been arrested, and that nothing was known of Thorburn's whereabouts. As all possible pressure had been put on Dr. Wang without success, and as it appeared that he was quite incapable of exercising any influence over the military authorities concerned, the

satisfactory or unsatisfactory answer? And how long am I to wait quietly for a reply that may be indefinitely postponed?

2. How far are we to be tied up pending establishment of Nanking as a real government? That seems as far off as ever. Meanwhile serious intention of mandate of May 4 is shown by announcement just made that special court at Shanghai to deal with cases of right of foreigners as from January 1, 1932 is to be set up.

3. My conviction remains as strong as ever that sound policy is to get *something* fixed up by agreement before January 1 next. Whether I can do that or not must depend (1) on how far you wish extraterritoriality issue to be subordinated to Thorburn case; (2) on what you decree as irreducible minimum on reserved areas question regarding which I still await instructions on my despatch No. 964³ and (3) political stability of Nanking e.g. present trouble with Canton.

4. I told United States Minister on September 15 that I was absolutely opposed to trading in Tientsin to get better terms over Shanghai—see American redraft of Article 16. I added that though I disputed his getting better terms for Shanghai than under our present draft Article 16 I wished him God-speed in his endeavour to get more. After talk of today I think he may indefinitely postpone his next visit to Nanking and the South. It would be *very* helpful to know your general trend of thought as to right line to follow and what I should now work for.

matter was referred to His Majesty's Government for instructions. On the 26th July Sir Miles Lampson was instructed to communicate a message to the President of the National Government from His Majesty's Government requesting the Chinese Government to discover the whereabouts of Thorburn, if alive to hand him over for trial, and to inflict suitable punishment on the guilty parties, failing which friendly relations between the United Kingdom and China would be gravely affected. Sir Miles Lampson proceeded immediately to Nanking, impressed upon Dr. Wang the gravity of the situation, and arranged for the transmission of the message to Chiang Kai-shek, who was at the time in Kiangsi. As a result of this action the President at the beginning of August ordered the Vice-Minister of War to make a thorough investigation and probe the matter. According to Dr. Wang this amounted to a fresh investigation, which would be completed in about ten days. Although it appeared that the new investigation was making satisfactory headway, no official report had yet been communicated to His Majesty's Legation, and it was only in September that the Ministry for Foreign Affairs communicated an interim note to the effect that after thorough investigation it had transpired that Thorburn had indeed provoked a calamity and suffered arrest, and that the responsible party was under detention and in process of being tried. Throughout the next few weeks strong and continuous pressure was exercised on the Chinese authorities, including the President himself, to secure full satisfaction. Finally, on the 20th October a formal reply was received from the Chinese Government stating that Thorburn had been shot by the regimental commander at Soochow. The reply contained an expression of regret, an admission that Thorburn should have been handed over to the British authorities, and a statement that the guilty party had been punished and all military commanders notified of the fact. [See Parl. Deb., 5th ser., H. of C., vol. 260, cols. 17-21.] The Chinese reply was accepted by His Majesty's Government as satisfactory.'

³ Not printed. In this despatch of July 3, Sir M. Lampson urged that no time should be lost in coming to a decision whether His Majesty's Government could approve Article 16 of the draft extraterritoriality treaty.

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 18, 9.30 a.m.)

No. 356 Telegraphic [F 5026/34/10]

PEKING, September 17, 1931¹

United States Minister has just received through his Counsellor in Nanking a personal letter from the Minister for Foreign Affairs expressing the earnest hope that he will be able shortly to visit Nanking and take up extraterritoriality negotiations regarding which time available is fast running out, e.g. 1st January, 1932.

2. United States Minister feels it difficult to ignore this request and his inclination is to go South and initiate expert discussions between Mr. Peck (his Counsellor) and Hsu Mo on the lines of our procedure between latter and Mr. Teichman last spring.

Minister having done this would then repair to Shanghai to await results. He is putting this suggestion to State Department but wished first to know if its adoption would embarrass us.

3. I replied, 'not in the least': but when he reached Article 16 in his discussions I presumed (? State Department)² would weigh carefully whether Nanking were in effect, in a *position* (? *favourably*)² to negotiate without fear of repudiation by Canton for domestic and political reasons. That might well prove most unfortunate for all of us. He said he was well alive to this.

4. He spoke, once more, of the disinclination underlying the (? Note)², of his Government, to (? entrench)³ in Tientsin if they could thereby get American draft Article 16 accepted for Shanghai. Did he understand that I was as firmly opposed as ever to this? I replied in the affirmative.

5. I told him I had just telegraphed unofficially (see my telegram 353⁴) for any indication that might be available from home as to the course which I should now pursue.

I had mentioned that he was as puzzled as I. He confirmed that. The one clear . . .² shown was that State Department wished to keep absolutely in line with us and either negotiate simultaneously or follow us as before. I thanked him.

Repeated to Mr. Aveling and Shanghai.

¹ The time of despatch is not recorded.

² The text is here uncertain.

³ The Text is here uncertain. Another text here read: 'to trade in Tientsin'.

⁴ No. 473.

*The Marquess of Reading to Sir M. Lampson (Peking)**No. 294 Telegraphic [F 5029/34/10]*FOREIGN OFFICE, *September 30, 1931, 3.30 p.m.*

Your despatch No. 964¹ and your telegrams Nos. 353² and 356³.

1. I agree that it is most desirable to reach a final agreement, if possible, with the Chinese Government on the subject of extraterritoriality before the end of the year. While every effort should be made to secure a settlement of the Thorburn case I do not consider that this case should influence our policy in regard to extraterritoriality. As you have pointed out extraterritoriality did not save Thorburn's life. He was secretly killed owing to reluctance to hand him over to a foreign court to be tried for the murder of two Chinese but if the draft treaty of last June has [*sic*] been in operation it is possible that the military would have handed him over for trial in accordance with the law. The national passions that have been aroused by the Thorburn case and the recommendations of the Feetham report may strengthen the opposition of those elements in Shanghai and elsewhere who fail to appreciate the danger of attempting to stand pat for an indefinite period on existing treaty rights. I am satisfied however that the arguments in my predecessor's despatch No. 303 to Washington⁴ are still valid, that it is impossible to maintain by force our extraterritorial privileges in China and that therefore our only alternatives are to see them go by default or arrive at agreement by negotiation.

2. I suggest that His Majesty's Government should now await the opening of negotiations by your American colleague with a view to getting some indication of whether the Nanking Government are in a position to sign a treaty and whether further difficulties are likely to arise over the question of reserved areas. Until the American negotiations have given us some such indication it does not seem possible more precisely to decide our future tactics.

3. As regards the question of reserved areas I agree that it would be a mistake to abandon the reservation of Tientsin in what would probably prove a vain effort to improve upon the terms Dr. Wang has tentatively offered for Shanghai. I am endeavouring to dissuade the State Department from adopting that course.

4. As regards the mandate of May 4 and recent establishment of Special Court at Shanghai do you think it would be advisable to address a formal note to the Chinese Government in which you would remind them of their recent appeal to the Powers not to allow the open flouting of sacred international pacts,⁵ refer to the mandate and the establishment of the Court and

¹ Not printed. See No. 473, note 3.

² No. 473.

³ No. 474.

⁴ No. 366.

⁵ For the Chinese Government's message announcing their appeal to the Council of the League of Nations on September 21 respecting Japanese action in Manchuria see No. 512.

enquire whether it is the intention of the Government to deal with the question of extraterritoriality by the method of negotiation—if so what progress they have made with their negotiations with other Powers, what are their views as to the draft of June 6 and what do they suggest is the next step that you should take? or do you think it would be preferable to make use of such an argument incidentally in the course of negotiations?

5. Please telegraph your considered views on course proposed in paragraph 2 and suggestion in paragraph 4 above.

No. 476

The Marquess of Reading to Sir M. Lampson (Peking)

No. 299 Telegraphic: by wireless [F 5330/34/10]

FOREIGN OFFICE, October 6, 1931, 5.0 p.m.

My telegram No. 144 to Nanking.¹

Following is text of memorandum communicated to United States Embassy on October 5.

With reference to the proposed Extraterritoriality Agreement with China, the Foreign Office have had under consideration the State Department's Memorandum and Draft of Article 16, relating to reserved areas, copies of which were enclosed in Mr. Atherton's letter to Mr. Orde of July 25 last.² They have, however, deferred communicating their comments and suggestions, as requested in the final paragraph of the Memorandum, until they had consulted His Majesty's Minister in Peking. A despatch³ and a subsequent telegram⁴ have now been received from Sir M. Lampson on this subject, from which it appears that negotiations between the United States and Chinese Governments on the basis of the Draft Treaty prepared by the State Department, including the Draft of Article 16 referred to above, may shortly be resumed in Nanking.

2. Article 16 in the British Draft of June 6 provides that subjects of His Majesty in Shanghai shall become amenable to Chinese jurisdiction on the expiration of ten years from the date when the Treaty comes into force. The effect of this, as the State Department's Memorandum points out, is that the Chinese may block negotiations on the subject of the arrangements to be made on the expiry of that period, to the end that the International Settlement, except in so far as the Land Regulations otherwise provide, may then fall under Chinese jurisdiction. The Foreign Office agree that there is much force in this criticism. It is true, as has recently been pointed out in Mr. Justice Feetham's Report, that the extraterritorial privileges of the leading nationals in Shanghai are, to a very large extent, the foundation on which rests the foreign municipal administration of the International Settlement.

¹ Not printed. This telegram reported the receipt of the American memorandum referred to in No. 470.

² Not printed. See, however, No. 470, note 2.

³ Not printed.

⁴ The reference is presumably to No. 474.

The Foreign Office, therefore, share the State Department's view that it is desirable that extraterritorial privileges should not be surrendered in Shanghai until a fresh agreement has been reached, making appropriate arrangements for the future municipal administration of the International Settlement. It may, however, prove very difficult to secure the assent of the Chinese Government to the continuance of extraterritorial privileges in Shanghai for an indefinite period. Mr. Justice Feetham, in the Report referred to above, has suggested that there should be such an indefinite period, to be measured not in years but in decades, and he has laid down conditions precedent of such a character that the period might well extend to generations. The probable result of these recommendations may be to arouse the suspicions of the Chinese upon this point, and strengthen their objections to the indefinite continuance of extraterritorial privileges in Shanghai.

3. As regards the International Settlement, it may be argued that as the foreign Powers are *beati possidentes* their nationals might continue to enjoy extraterritorial privileges in that area until a fresh agreement had been negotiated, and that there is therefore no need to assent to the Chinese desire to fix a time limit for the termination of these privileges. This view, however, in the opinion of the Foreign Office does not sufficiently distinguish between the area of the International Settlement and the much wider area known as Greater Shanghai. Extraterritorial privileges limited to the area of the Settlement alone and not enjoyed over the whole of Greater Shanghai would prove of very little value to the foreign community at that port. If the Chinese had reason to believe that the foreign nationals in Shanghai intended to hold on to their privileges for an indefinite period, they might close in on the Settlement and eventually succeed in making the whole position untenable.

4. Outside the areas of actual foreign control, extraterritoriality is only of value if enjoyed with the willing assent of the Chinese authorities. At present it is still of some value, because the prospect of a settlement by negotiation is in sight, but if the Chinese believe that the foreigners in Shanghai propose to follow Mr. Justice Feetham's advice and hold on to their extraterritorial privileges indefinitely, then it is to be feared that, even if the extreme step of unilateral abrogation is not taken, extraterritoriality beyond Settlement limits will in practice cease to exist. As regards foreign residents, however, and foreign commercial, financial and industrial interests, Greater Shanghai is a single indivisible unit, and the maintenance of extraterritorial privileges in one section only of this area would be of little value. One of the main objects of the Foreign Office policy has been to prolong for a further period the enjoyment of extraterritorial privileges—not merely in the International Settlement—but in the whole of Greater Shanghai. That object seemed to have been attained when in May last the Chinese Minister for Foreign Affairs offered to exclude the whole of Greater Shanghai from the area where subjects of His Majesty should be amenable to Chinese jurisdiction. It did not therefore appear to be wise to break off the negotiations without accepting this offer and endeavouring to clinch the bargain. The

limitation of the period of exclusion to a fixed term is, of course, a serious objection, but on balance the Foreign Office considered that the objections to a time limit were outweighed by the very considerable advantages of securing full extraterritorial privileges in the whole of Greater Shanghai for so long a period as ten years.

5. In reaching their decision on this point, the Foreign Office were also moved by the consideration that the position of foreign nationals in the International Settlement at Shanghai after they have surrendered their extraterritorial privileges will be stronger under the Land Regulations than is generally supposed. The Shanghai Municipal Council will still continue to possess all the powers conferred on them by the Land Regulations, they will still be subject only to the jurisdiction of the Court of Consuls, and therefore in the exercise of these powers they will enjoy the protection of extraterritorial status. It is possible, therefore, that it may not be so difficult as the State Department is disposed to believe to reach some agreement with the Chinese Government before the end of the ten year period on the subject of the future administration of Shanghai.

6. The Foreign Office view with considerable concern the proposal of the State Department to abandon in the last resort the reservation of Tientsin with a view to securing the assent of the Chinese to the remaining provisions of their Draft of Article 16. There are considerable British interests at Tientsin and from the point of view of the general foreign position in China Tientsin is comparable to, and stands second only to, Shanghai. His Majesty's Government therefore attach great importance to the reservation of Tientsin, if only for the comparatively short period of five years. Such a breathing space appears to them to be essential. It was with great difficulty that they secured the assent of the Chinese Minister for Foreign Affairs to this provision in Article 16. If the same demand is strongly pressed by the United States Government, the Chinese Government will probably yield, but if the United States Government show any sign of weakening on this point there is little doubt that the Chinese Government will seize upon this as an excuse to go back upon the tentative assent of their Foreign Minister, without however granting the United States demand for the indefinite exclusion of Shanghai. In each case the Chinese will only yield the minimum demanded by each Government and both Governments will thus be worse off. The Foreign Office would seize any opportunity that might occur, consistently with their existing commitments to the Chinese Minister for Foreign Affairs, to support the State Department's proposals for the indefinite exclusion of Shanghai. They believe, however, for the reasons stated above, that there is little chance of the Chinese Government granting this demand, and they suggest for the consideration of the State Department that it would be better not to make a certain sacrifice of so important an interest as Tientsin for the very uncertain prospect of improving the position at Shanghai.⁵

⁵ For the reply of the State Department, which was communicated to the Foreign Office under cover of a letter of November 5 from Mr. Atherton, see *Foreign Relations of the United States 1931*, vol. iii, pp. 918-19.

No. 477

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 7, 8.0 p.m.)

No. 481 Telegraphic: by wireless [F 5488/34/10]

PEKING, October 7, 1931

Your telegram No. 294.¹

I am grateful for this definite and most helpful expression of Your Lordship's views.

I concur in course of action suggested in 2nd paragraph subject to proviso that we must shape our course according to circumstances of the moment and might if events were favourable conceivably want once more ourselves to take the initiative without waiting on America.

If so I should propose to do so without further instructions.

I am definitely against suggestion in 4th paragraph because (a) I think it would be a mistake in tactics to address any such note to Chinese Government at present time, (b) it might turn out a very double edged weapon and (c) it would do no good and might do much harm whether by merely irritating Chinese or by provoking premature discussions. It might be possible to make some use of argument suggested in verbal negotiations later on if and when political situation cleared but I am not sure.

I remain convinced that if we can get treaty through by January 1, 1932, we should make every effort to do so, we could then if we so desired hold up ratification and enforcement (see draft treaty . . .² note) while waiting for others to come into line.

Whether we shall be able to do so or not must depend on Chinese political situation rather than on us.

I shall now work on above lines adopting [adapting] my action to situation as and when it develops.³

¹ No. 475.

² The text is here uncertain. See, however, No. 457, Note 4.

³ Sir M. Lampson was informed on October 22 in Foreign Office telegram No. 146 Tour to Nanking that the present telegram had not been considered by Lord Reading who was at Geneva, but 'he would not wish you to make any forward move without further instructions'.

No. 478

Sir M. Lampson (Peking) to the Marquess of Reading
(Received November 2, 9.30 a.m.)

No. 592 Telegraphic [F 6251/34/10]

PEKING, November 2, 1931, 10.52 a.m.

At Nanking I had several discussions on extraterritoriality with United States Minister who shares my conviction that it is most desirable to get

something through by January 1, if as a result of present Shanghai negotiations a united government emerges. We both feel in that case we should strike whilst the iron is hot and he proposed telegraphing in that sense to State Department. By November 16 it may be possible for both of us to go ahead, sign before the end of the year and play for postponement of mandate of May pending ratification.

Repeated to Mission.

No. 479

The Marquess of Reading to Sir M. Lampson (Peking)

No. 336 Telegraphic: by wireless [F 6251/34/10]

FOREIGN OFFICE, *November 4, 1931, 6.0 p.m.*

Your telegram No. 592.¹

Following from Sir V. Wellesley.

We shall try to get a decision in principle on extraterritoriality treaty as soon as possible after new Cabinet is formed.² Pending that decision I am afraid it will be impossible to make any forward move even if situation in China permits.

¹ No. 478.

² Mr. Ramsay MacDonald reconstituted his Ministry after the success of the National Government in the general election of October 27, 1931. Sir John Simon took office as Secretary of State for Foreign Affairs in succession to Lord Reading on November 9, 1931.

No. 480

Sir M. Lampson (Nanking) to Sir J. Simon
(Received November 12, 5.45 p.m.)

No. 309 Tour: Telegraphic [F 6530/34/10]

NANKING, *November 12, 1931, 9.5 p.m.*

Extraterritoriality.

I was able in informal way to touch on the question of mandate of May 4 with the Acting Minister for Foreign Affairs today. He could realise as well as I that it was obviously most undesirable there should be any attempt to implement it on January 1. So far as [*sic*] foreign Powers had been able to ignore the mandate but any attempt to bring it into force on January 1 would provoke immediate international complications and I reminded him gently that China was now loud in her support of international law and Covenant of League of Nations. She might find it awkward if after her attitude on Manchurian question she were hauled before the League for unilateral abrogation of extraterritoriality.

2. Mr. Lee said he was well aware that mandate could not now be brought into force on January 1. The only question was how to bring postponement about. Nanking party quite understood the position but possibly some of the Cantonese elements did not. He therefore proposed to await results of present attempts at a reunification conference in the near future in the hope that thereafter he could bring members of the prospective reorganised government all to agree to postponement.

3. . . .¹ an opening as to the length of such postponement, I said 'at least till January 1, 1933 by which time it might be hoped position might have sufficiently cleared to make re-opening of extraterritoriality negotiations a practical possibility which it clearly just now was not.'²

Repeated to Peking and Shanghai.

¹ The text is here uncertain. Another text here read: 'Given an opening'.

² With reference to this telegram Sir M. Lampson reported in his telegram No. 324 Tour of November 20: 'At my suggestion United States Minister has spoken to Acting Minister for Foreign Affairs in similar sense and received the same reply. Acting Minister for Foreign Affairs also admitted that in existing conditions there could be no question of resumption of extraterritorial negotiations.'

No. 481

Sir M. Lampson (Nanking) to Sir J. Simon (Received January 5, 1932)

No. 209 Tour [F 79/5/10]

NANKING, November 26, 1931

His Majesty's Minister, Nanking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs, and transmits herewith copy of a minute of interview with Dr. Wellington Koo¹ on the 25th November respecting extraterritoriality.

ENCLOSURE IN No. 481

Minute of Interview

NANKING, November 25, 1931

After discussing with Dr. Wellington Koo this afternoon the telegram² I had just had from the Foreign Office regarding the recovery of Thorburn's remains, it seemed a good opportunity just to mention to him, on the eve of his assuming office, the extreme unwisdom of any attempt to implement the mandate of the 4th May regarding the unilateral assumption by China of jurisdictional rights over foreigners on the 1st January next. I made it clear that, in bringing this matter up, I did so entirely on my own initiative and without any instructions from home; at the same time, I could confidently

¹ Dr. Koo was appointed to succeed Dr. Lee as Acting Minister for Foreign Affairs on November 23.

² Not printed.

assure him that, if China were to attempt to enforce the mandate, she would certainly be faced by grave and most embarrassing complications. I had had an opportunity of expressing these views to Dr. Frank Lee on the 12th November, the day after my arrival in Nanking, and had been pleased and relieved to find that he fully appreciated this danger and had, in fact, already been considering how best the postponement of the mandate could be brought about. As Dr. Koo knew, the mandate had, fortunately, never been communicated to the foreign Powers, for if it had it would have at once provoked a sharp rejoinder. The Powers had thus so far been able to ignore the mandate and, undoubtedly earlier in the year, the hope had been that by the 1st January next the perplexing question of extraterritoriality would have been covered by formal negotiations and agreement with the interested Powers. But internal events, for which the foreign Powers were in no sense responsible, had intervened, and it had been at the request of the Chinese Government that the negotiations had been suspended in June last. The probability had then been that by the autumn some sort of internal peace would have been restored and a unified Government once more achieved, but that hope had not been realised and, in the meantime, this critical situation with Japan has arisen. There could now be no question of the extraterritoriality negotiations being resumed in the near future, and therefore nothing would have been agreed with the Powers by the 1st January next. I therefore suggested that this question of postponing the mandate should be one of the first questions which he should consider on assuming office.

Dr. Koo said that naturally he was not in the least *au courant* with the course of the late negotiations nor had he yet actually assumed office as Acting Minister for Foreign Affairs; accordingly, I could not expect him to pronounce any opinion; but did not the elimination of the Thorburn case mean that we should now be prepared to resume the extraterritoriality discussions? He had been under the impression that such would be one of its effects.

I admitted the Thorburn case had at one time seemed one of the main obstacles, but any sane man could realise that, with the present state of affairs in China, no foreign Government would be prepared to discuss a matter of such importance as extraterritoriality. I was sure he could take that as definite—though I must add once more that, since the entry of the present British Government into office, I had received no instructions whatever on this question. He asked whether I had any indication of a stiffening of the British attitude since the return of so large a Conservative majority? I replied that, as I had just mentioned, no instructions of any sort had reached me, but I did not suppose that they would, for it was self-evident that the moment could not be more inopportune to take the matter up afresh. However, I admitted that it was quite possible that we might find a stiffening of our attitude when the time came to resume negotiations. It was evident that Dr. Koo realised that this might be so.

He asked me just how our negotiations had ended. How far had our draft

treaty proceeded? I replied that, with the one most important and vital exception of the reserved areas (Article 16), everything I hoped and believed was practically agreed ground and it was much to be desired that, if and when we did resume discussions, all the other articles of the draft treaty should be taken as non-contentious matter. He said that that seemed to him eminently desirable. It would save a great deal of time and trouble and simplify matters generally very much. (I only note this point because it may be of some importance in the future. It would be lamentable if we had to take up afresh and all over again the Articles of the draft treaty, other than Article 16.)

I should record that, prior to this conversation with Dr. Koo, I had had a few words with the American Minister this morning, who agreed that it was desirable, before he and I left Nanking at the end of this present visit, to make the point with Dr. Koo about the postponement of the mandate of the 4th May just as we had both already done with Dr. Frank Lee.³

M. W. L.

³ In his telegram No. 372 Tour of December 7, in which he briefly reported this interview, Sir M. Lampson added: 'It seems most unlikely that new unification of Central Executive Committee will come into existence in time to deal with matter before the end of the year (see my telegram No. 309 Tour [No. 480]). It might be well therefore without further delay to take the matter up officially and notify the Chinese Government verbally under your instructions that His Majesty's Government cannot recognize any impairment of British extraterritoriality rights on January 1 or until such time as an agreement mutually satisfactory has been concluded.'

No. 482

*Sir M. Lampson (Nanking) to Sir J. Simon
(Received December 12, 4.45 p.m.)*

No. 385 Tour: Telegraphic [F 7478/34/10]

NANKING, December 12, 1931, 9.0 p.m.

Extraterritoriality.

[Acting] Minister for Foreign Affairs raised this with me this morning. For internal political reasons it was very desirable to clarify the position and give opposition no pretext on which to attack Nanking Government in addition to their Manchurian policy. He understood in June last his predecessor and I had practically reached agreement save on one major point. When the time came to resume negotiations presumably we would start from that point. He now had it in mind to write me a letter (not a note) of enquiry into our position so that we might make it clear why we considered it inopportune to proceed further with the negotiations.

2. I replied that the reasons why we could not resume at present were sufficiently obvious. If he felt that it would help his Government to have our position recorded I would put suggestion before His Majesty's Government but advised him to hold his hand as regards proposed letter until I had your

reaction. His Majesty's Government who had other far more important issues to tackle had not yet considered their extraterritoriality policy and it was right to warn him it might well be less accom[m]odating than their predecessors in office. To be frank extraterritoriality negotiations were dead and would in my opinion remain so for at least another year.

3. He repeated request to submit matter to you and hoped that we would continue to take lead which would be found to our benefit just as it had up to date.

4. I should be glad of instructions.

5. Turning to Mandate of May 4, he said that he had taken matter up with his colleagues explaining shortness of time and physical difficulties in the way of enforcing it on January 1. He personally favoured postponement but once more it was question of internal politics. From his attitude I gathered that it is criticism from Canton elements of which they are afraid and that this is also the motive of the movement reported in paragraph 1.

6. United States Minister recently told me attitude of the State Department remains unchanged. But he has no instructions to touch the question afresh.

Repeated to Peking and Shanghai.

No. 483

Sir J. Simon to Sir M. Lampson (Shanghai)

No. 174 Tour: Telegraphic [F 7569/34/10]

FOREIGN OFFICE, *December 17, 1931, 6.15 p.m.*

Your telegrams Nos. 372¹ and 385² of December 7 and December 12. Extraterritoriality.

1. His Majesty's Government have now considered the question of extraterritoriality. By winding up the negotiations in June last, the late Government secured a strong tactical position from which to face any new situation that may arise during the period of political chaos that, as was then foreseen, lay ahead. In order to avoid any weakening of that position and in view of the practical certainty that the Chinese will take the initiative in going back on the terms of the draft treaty, it seems desirable to adopt the attitude that the question whether His Majesty's Government are or are not prepared to sign the draft treaty, or any similar question, cannot arise until negotiations have been actually resumed, and that such resumption cannot take place for a considerable time to come. His Majesty's Government have carried their negotiations to the furthest possible point and the whole question must, therefore, remain in abeyance until negotiations with other Powers have made similar progress and until there seems some probability that China

¹ Not printed. See No. 481, note 3.

² No. 482.

will be able to implement any treaty that may result from such negotiations. If the Minister for Foreign Affairs approaches you again on the subject, you should indicate that that is the attitude which His Majesty's Government propose to adopt. It would however be better to avoid taking any initiative on the subject.

2. As regards the mandate of May 4 you should take an early opportunity of stating to the Minister for Foreign Affairs that while His Majesty's Government would prefer entirely to ignore the mandate, and do not therefore demand its rescission, they would take a most serious view of any attempt by the Chinese Government or by any misguided local official to enforce the mandate on the 1st January or, indeed, at any time before negotiations on the subject of extraterritoriality have been brought to a satisfactory conclusion and an agreement has come into force. Any such attempt would be firmly resisted. His Majesty's Government would not hesitate to take what measures were open to them to maintain the treaty privileges of their nationals and they have no doubt that other Governments, with whom they are in consultation on the subject, would join them in such measures.³

³ The telegram was repeated on December 22 as Foreign Office telegram No. 174 to Tokyo, No. 32 Saving to Paris, No. 863 to Washington and No. 289 to Rome.

No. 484

Sir J. Simon to His Majesty's Representatives at Tokyo, Washington, Rome and Paris

No. 175¹ Telegraphic [F 7638/34/10]

FOREIGN OFFICE, *December 22, 1931, 4.0 p.m.*

My telegram No. 174 to Nanking [Shanghai].²

Please ascertain what view the Government to which you are accredited take of the danger that extraterritorial privileges in China may be disregarded after January 1, 1932, and whether they are prepared to adopt an attitude similar to that outlined in my telegram under reference.³

To Tokyo only.

If special measures of precaution at the various treaty ports of China should be found to be necessary we should of course welcome the co-operation of the Japanese Government in them. In view however, of recent events in Manchuria you should be careful not to give the impression that we contemplate any aggressive action or indeed any action inconsistent with our obligations under the Covenant and the Pact [? of Paris].

¹ No. 175 to Tokyo, No. 864 to Washington, No. 290 to Rome and No. 33 Saving to Paris.

² No. 483.

³ Mr. Campbell replied in Paris telegram No. 28 Saving of December 23 that the French 'Ministry for Foreign Affairs inform me that they are in general agreement with the attitude which you have instructed Sir M. Lampson to adopt'.

Sir F. Lindley¹ (Tokyo) to Sir J. Simon (Received January 26)

No. 602 [F 517/5/10]

TOKYO, December 23, 1931

Sir,

On receipt this morning of your telegrams Nos. 174² and 175³, on the subject of British treaty rights in China, I requested the Vice-Minister for Foreign Affairs to receive me this afternoon. I began by reminding Mr. Nagai that the negotiations between His Majesty's Government and the Nanking Government had almost resulted in the signature of a treaty last summer. Since that time, His Majesty's Government had been taking the whole position into their serious consideration, and had come to the conclusion that the moment was not suitable to attempt to continue the negotiations. It would be preferable to wait until other countries had made as much progress as we have done; and until conditions were more settled than they are at present.

2. I then called the Vice-Minister's attention to the fact that the Chinese mandate, abolishing the treaty rights of foreigners in China, would nominally come into force on the 1st January next. This was a serious matter and His Majesty's Government had decided that, if the Chinese authorities attempted to act towards British subjects in defiance of British treaty rights, they would take such steps as lay in their power to defend those rights. It did not mean that His Majesty's Government were oblivious of their commitments and their duties under the Covenant of the League of Nations, the Pact of Paris, or kindred documents; but it did mean that they were not prepared to acquiesce tacitly in the illegal practices of the Chinese authorities. I was instructed to enquire what attitude the Japanese Government intended to take up on this question; and whether, should necessity unfortunately arise, they would be ready to co-operate with us in suitable measures for the defence of our common interests.

3. Mr. Nagai listened attentively, and, as regards the first point, reminded me that the Japanese Government had for long been of the opinion that His Majesty's Government were going too fast in their treaty negotiations with China. The Japanese negotiations had been at a stand-still for many months, and he saw no prospect of their being resumed in the near future. As regards the defence of Japanese rights and co-operation with ourselves, he would have to lay the matter before the Cabinet and would let me have an answer as soon as possible.⁴

¹ Sir F. Lindley had succeeded Sir J. Tilley as H.M. Ambassador at Tokyo.

² No. 483: see No. 483, note 3.

³ No. 484.

⁴ Sir F. Lindley reported in his telegram No. 268 of December 30: 'Vice-Minister for Foreign Affairs informed me verbally today . . . that Japanese Government did not admit validity of mandate of May 5 [4] and would take such measures as seemed appropriate to defend their rights if the latter were infringed. Nature of these measures and desire to co-operate would depend on circumstances attending the infringement.'

4. It was, perhaps, an unfortunate coincidence that, at the interview above recorded, it was my duty to hand to Mr. Nagai an *aide-mémoire* protesting, in accordance with the instructions contained in your telegram No. 177^s of the 22nd December, against any attack on Chinchow. As you are aware, the desirability of Anglo-Japanese co-operation in China has been often urged by the Japanese Government; but in practice it has never been found possible, owing to the fact that we are not prepared to give our support to the Japanese in some of the questions to which they attach particular importance. It is often believed by those who have little experience of foreign mentality that it is possible to co-operate with a country by treating each question as it arises on its merits. My experience goes to show this method is unworkable, since every foreign Government considers the merits of its own particular question to be unassailable, and, unless we take the same view, will not support us in questions to which we attach importance, whatever the merits of the case may be. Applying these principles to the present instance, the most we can expect in China from the Japanese is parallel action in cases where the interests of the two countries are identical and equally deeply involved.

I have, &c.,

F. O. LINDLEY

^s Printed in Volume IX in this Series, Chapter I.

No. 486

Sir R. Lindsay (Washington) to Sir J. Simon

(Received December 30, 9.30 a.m.)

No. 774 Telegraphic [F 7767/34/10]

WASHINGTON, December 29, 1931, 6.40 p.m.

My telegram No. 762.¹

Mr. Hornbeck gave me today written *aide-mémoire* which is substantially in the same sense as Mr. Castle's language to me. Copy by bag.²

Mr. Hornbeck then suggested that if, as is possible, some violation of extraterritorial rights were to be perpetrated, the best thing would be that the Powers chiefly concerned (United States, Great Britain and France, but not Japan) should immediately and simultaneously present an identic note of strong protest. He proposed that the drafting of the note should be proceeded with at once so as to be ready the moment an emergency should arise.

I suggested that there might be danger of the news leaking out that the note was in preparation. To appear as contemplating a breach of treaty was rather an invitation to the commission of a breach. Would it not be better

¹ Not printed. This telegram of December 23 reported that Sir R. Lindsay had given to Mr. Castle an *aide-mémoire* in accordance with No. 484, and gave a brief account of Mr. Castle's views thereon: see also note 2 below.

² Not printed. This *aide-mémoire* is printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 927-8.

to agree between ourselves to the principle of an identic note, and to invite French co-operation urgently when the occasion arose?

He admitted this, but I think preferred his own scheme. Please telegraph your instructions.

No. 487

Sir M. Lampson (Peking) to Sir J. Simon
(Received December 31, 10.30 a.m.)
No. 763 Telegraphic [F 7811/34/10]

PEKING, December 31, 1931, 4.22 p.m.

Extraterritoriality.

Mr. Ingram on my instructions delivered verbal message in terms of paragraph 2 of your telegram No. 174 Tour¹ to Hsu Mo on December 28. I had intended instructing Mr. Ingram to repeat warning to new Minister for Foreign Affairs as soon as he assumed office.² But in view of issue since of fresh mandate on December 29 postponing that of May 4 (see my telegram No. 761³) I shall now leave it at that for the time being. If necessity arises or question is raised again by us or by Chinese warning can be repeated and in order that new Minister for Foreign Affairs may have official cognizance of it I am giving Mr. Ingram discretion to refer to it casually should he have opportunity of alluding as a wise step to issue of mandate of December 29.

Repeated to Mission and Commander-in-Chief.

¹ No. 483. In this connexion Sir M. Lampson had reported in Peking telegram No. 740 of December 24 that there was then 'no one in real authority in Nanking. I have informed United States Minister fully. Before leaving Nanking he warned Mr. Koo, on his own initiative on much the same lines as I had previously done' (see No. 481).

² Mr. Eugene Chen was appointed Minister for Foreign Affairs in the new Chinese Government which took office on January 1, 1932, following the resignation of President Chiang Kai-shek on December 15, 1931.

³ Not printed. This telegram of December 29 reported the issue of the Chinese mandate of that date, a translation of which is printed in *Foreign Relations of the United States 1931*, vol. iii, p. 931.

No. 488

Sir J. Simon to Sir R. Lindsay (Washington)
Nos. 2 and 3 Telegraphic [F 7767/34/10]

FOREIGN OFFICE, January 1, 1932, 3.0 p.m.

Your telegram No. 774.¹

Recent decision of Chinese Government as reported in Peking telegram [No.] 761² would appear to have removed the immediate danger of unilateral abolition of extraterritoriality by governmental action though there may still be danger of sporadic cases of action by local official[s]. I agree that it does

¹ No. 486.

² See No. 487, note 3.

not seem desirable to draft an identic note in anticipation of such cases. It would be better to wait till some case of treaty violation had occurred and then deliver a note of protest and take such other action as may be appropriate to the circumstances of the particular case. Immediate action being essential it would be better to avoid the delay inevitably involved in drafting an identic note. His Majesty's Government therefore propose that the Government affected should immediately protest, at the same time explaining that the other Powers principally concerned were being consulted. These Powers should then as speedily as possible associate themselves with the Protest and, if possible and practicable, with such other measures of defence as the affected Powers may have been able to take.

You should ask the Government to which you are accredited whether they concur in these views and are prepared to adopt the procedure suggested above.

(Washington only.) Please inform Mr. Hornbeck that we consider that it would be impolitic to exclude Japan entirely from consultation and co-operation which we contemplate.³

Repeated to Paris No. 1 Saving, Rome No. 4, Tokyo No. 4 and Peking No. 3.

³ Sir R. Lindsay replied in Washington telegram No. 34 of January 19, in which he stated: 'State Department have replied that they subscribe in principle and will probably be guided thereby though they do not wish to be understood as having entered into agreement.'

No. 489

Sir J. Simon to Lord Tyrrell (Paris), Sir R. Graham (Rome) and Sir F. Lindley (Tokyo)

No. 2 Saving:¹ Telegraphic [F 7767/34/10]

FOREIGN OFFICE, *January 1, 1932, 3.0 p.m.*

Washington telegrams Nos. 762² and 774³ and my telegram to Washington No. 2⁴.

Please ascertain whether the Government to which you are accredited are prepared to act as suggested in my telegram to Washington No. 2.⁵

¹ No. 2 Saving to Paris, No. 5 to Rome and No. 5 to Tokyo.

² See No. 486, note 1.

³ No. 486.

⁴ No. 488.

⁵ Replies favourable to the proposals of His Majesty's Government were received from the French and Italian Governments, and transmitted respectively under cover of Lord Tyrrell's despatch No. 37 of January 13 and Sir R. Graham's despatch No. 34 of January 19. Sir F. Lindley reported in his telegram No. 22 of January 19: 'Minister for Foreign Affairs informed me this afternoon that he had only just had time to study proposals of His Majesty's Government. Personally he agreed with them and attached the greatest importance to co-operation in China. He would send official reply very soon. Minister for Foreign Affairs added that International Commission to be sent out by the League of Nations [see Chapter XII] might play a most important part in dealing with Chinese problems.' See further Volume IX, Chapter II.

No. 490

Sir M. Lampson (Peking) to Sir J. Simon
(Received January 12, 2.29 p.m.)

No. 36 Telegraphic [F 198/5/10]

PEKING, January 11, 1932¹

Your telegrams Nos. 12² and 15³.

I have no doubt whatever that wise course is to ignore new mandates as we did the original.⁴ We have got what we want, namely, indefinite postponement and must allow Chinese to save their face as best they may.

¹ The time of despatch is not recorded.

² Not printed. This telegram of January 6 referred to the Chinese mandate of December 29, 1931, and stated: 'Terms of mandate are open to obvious criticism from our point of view, but it will perhaps be wisest to take no notice. If you think otherwise I shall be glad of your views.'

³ Not printed.

⁴ In this connexion Sir M. Lampson had reported in his telegram No. 9 of January 5 that he had discussed the situation fully with his American colleague and that they were agreed that 'there is no need for further action here'.

CHAPTER VIII

Correspondence regarding the situation in Manchuria and Korea before the Japanese occupation of Mukden (June 30–September 19, 1931)

No. 491

Sir M. Lampson (Peking) to Mr. A. Henderson (Received August 31)

No. 926 [F 4706/1391/10]

PEKING, *June 30, 1931*

Sir,

I have the honour to transmit to you herewith the original and one copy of a report by the Military Attaché to this Legation regarding Japanese military displacements in Manchuria. This information only confirms once more that the policy of Japan in China is based mainly on her privileged position in the three Eastern Provinces and adjoining territories, and that, whatever else may happen in other parts of the country, she will insist on 'Hands off Manchuria'.

I have, &c.,
MILES W. LAMPSON

ENCLOSURE IN No. 491

Colonel Badham-Thornhill to Sir M. Lampson

Report XIV

PEKING, *June 26, 1931*

Sir,

I have the honour to report that I have come into possession of a paper outlining the military arrangements the Japanese have in hand towards taking over Manchuria.

2. The document is a complete survey of the situation regarding—
 - (a) Present military forces in Manchuria, including railway protection troops.
 - (b) Reserve gendarmerie and police units.
 - (c) Reserve volunteer formations.
 - (d) Number of reserve officers, warrant officers, non-commissioned officers and men of each grade available in case of war.

- (e) Gun, rifle, shell and cartridge stores.
- (f) Clothing and equipment depôts.
- (g) Emergency supply depôts.

3. The information given seems accurate as regards formations about which something is known through normal channels. Remaining details seem sufficiently probable to encourage the belief that they may be also correct, though no check on the figures is immediately available.

4. A close examination of the details confirms the general impression, amongst those who have made a study of the situation, that Japan under certain conditions is in a position, should she so desire, to take over Manchuria without moving a man from the home country. There are at the moment, presuming the figures given in the document are approximately correct:—

Reserve officers, all grades	.	.	.	.	4,355
Reserve warrant officers	.	.	.	.	444
Reserve non-commissioned officers	.	.	.	.	18,063
Reserve men	.	.	.	.	67,026
Total	.	.	.	.	85,533
					89,888

in Manchuria and North China. These men are all classified into appropriate categories and are in possession of complete instructions as regards their duties in the event of a partial or complete mobilisation being ordered.

Guns, rifles, clothing and similar military equipment required on mobilisation are already stored at points so situated that quick distribution to all emergency units is assured. Tables giving a list of these depôts and their contents show that arrangements are more complete than is generally suspected.

5. The document, as a whole, shows that Japan is ready for eventualities involving either—

- (a) Operations on a large scale in which she would mobilise her home divisions, despatching them in safety through a Manchuria that had already been made secure for their transit; or
- (b) Minor contingencies such as trouble with China not immediately involving a third Power. In this event a local mobilisation would secure for Japan all the safeguards she requires pending development of the situation.

6. A copy of this paper, together with the technical details embodied in the document, is being forwarded, as soon as translation is completed, to the Directorate of Intelligence, War Office.

I have, &c.,

G. BADHAM-THORNHILL

Military Attaché

Sir F. Lindley (Tokyo) to Mr. A. Henderson (Received August 8)

No. 364 [F 4304/3793/23]

TOKYO, *July 10, 1931*

Sir,

With reference to my telegrams Nos. 125 and 126¹ of the 6th and 7th instant respectively, relative to the outbreak of anti-Chinese riots in Korea, I have the honour to transmit to you herewith copy of a despatch² addressed to me by His Majesty's Consul-General at Seoul containing details of the earlier incidents which occurred at Seoul and Chemulpo from the 3rd to the 5th July, and reporting that similar attacks on Chinese property and persons had also occurred in all parts of the peninsula.

2. Mr. Royds's report is fully borne out by what has appeared in the press on the subject of the anti-Chinese agitation, but at the time his despatch was written information in regard to the outbreak of [at] Pingyang was apparently not available. This city appears to have been the scene of by far the most serious riot, a large mob of Koreans having attacked the Chinese residents, setting fire to buildings and seriously damaging Chinese shops and property. The total number of Chinese killed is stated to have been over eighty, while many were seriously wounded. Similar, though less serious, outbreaks have occurred at many widely scattered places in the peninsula, and it is reported that many Chinese have left the country fearing a spread of the agitation. The total Chinese population in Korea in October 1930 is said to have been 91,466.

3. The press statement that troops had been called out to assist the police at Pingyang, to which I referred in my telegram No. 126, was at first denied, but it was later officially announced that several sections of an infantry regiment quartered in the city had, in fact, been called out in the capacity of gendarmes to assist the police and regular gendarmerie in subduing the disturbances at Pingyang and at the neighbouring port of Chinnampo. These, it appears, have now been withdrawn, since the crisis seems to have passed, and the police and regular gendarmerie are said to have the situation well in hand.

4. The vernacular press was not slow to realise that the occurrence of anti-Chinese riots on such a serious scale was a blow to the prestige of Japan, and that the incidents were liable to lead to further complications between Japan and China at a time when it was least desirable that friendly relations should be endangered. The weakness of the Government's foreign policy *vis-à-vis* China is blamed for the state of affairs as regards Japan's position in Manchuria, and is held responsible for the agitation against Korean tenant

¹ Not printed. These telegrams reported on a clash which occurred on July 1-2 between Chinese and Japanese police forces at Wanpaoshan near Changchun in connexion with a dispute regarding the eviction of Korean tenant farmers, and also on the ensuing anti-Chinese riots in Korea. For these incidents see League of Nations: *Appeal by the Chinese Government: Report of the Commission of Enquiry* (Geneva, 1932), pp. 61-63.

² Not printed.

farmers in the Kirin district, which was the direct cause of the riots in Korea. That much political capital will be made out of the affair is proved by the announcement in the press that the Seiyukai party are sending a commission of enquiry to Korea. It is not, indeed, possible entirely to absolve the Japanese authorities of negligence in failing to anticipate and take fuller precautions against the outbreak of an anti-Chinese agitation on the part of the Koreans. As reported in Mr. Acting Consul-General Paton's despatch No. 60 of the 15th December, 1927, copy of which formed the enclosure in Sir John Tilley's despatch No. 651 of the 29th December of that year, there had been signs of the organisation of a similar uprising in December 1927, in very similar circumstances, and in conversation with a member of my staff an official of the Ministry for Foreign Affairs admitted that the authorities had been apprehensive lest the recent Wanpaoshan affair should lead to trouble in the peninsula. Moreover, the newly-appointed Governor-General has not as yet taken up his post, while it appears that it was not until the 7th July that the new civil superintendent arrived in Seoul. It so happened, therefore, that in some cases the responsible officials were absent at the time of the first outbreak, a fact which seems to have led to some delay in the taking of prompt action to quell the disturbances.

5. The Nanking Government have naturally taken a serious view of the matter, and representations have been made to the Japanese Government, both by the Chinese Minister at Tokyo and through the Japanese Chargé d'Affaires at Nanking. It appears, however, that they have so far adopted quite a reasonable attitude. The Japanese Government have expressed their regret at the occurrences, but at the same time have stated that, while a full enquiry will be made as soon as possible, there is nothing to show that the authorities of the Government-General were in any way responsible. They could not, therefore, regard the affair as one of international character, though proper steps would be taken to prevent the recurrence of such incidents, while compensation would, as an act of grace, be made to the Chinese, and the Koreans implicated in the riots would be duly dealt with according to law.

6. I am sending a copy of this despatch to His Majesty's Minister at Peking.

I have, &c.,

F. O. LINDLEY

No. 493

Sir F. Lindley (Tokyo) to Mr. A. Henderson (Received August 20)

No. 373 [F 4548/3793/23]

TOKYO, July 16, 1931

Sir,

With reference to my despatch No. 364¹ of the 10th instant, I have the honour to transmit herewith a copy of a despatch² from His Majesty's Consul-

¹ No. 492.

² Not printed.

General at Seoul on the subject of the recent anti-Chinese movement in Korea, together with a copy of a most interesting report from His Majesty's Acting-Consul at Dairen dealing with the recent anti-Korean incident at Wanpaoshan, which was to some extent responsible for the anti-Chinese riots in Korea, and containing a general survey of the present position of Sino-Japanese relations in Manchuria.

2. I took an opportunity yesterday of asking the Minister for Foreign Affairs how the position now stood between the Japanese and Chinese Government[s] regarding the unfortunate incidents dealt with in these two despatches. Baron Shidehara replied that the Nanking Government was taking up a very reasonable attitude. He ascribed this somewhat surprising fact to the present precarious position in which Chiang Kai-shek found himself between the Communist rising on the one hand and the Canton rebellion on the other. No doubt the general did not wish to add to his troubles by entering into a serious dispute with the Japanese Government. It was not yet possible to say whether the agitation which had been started in Shanghai against the Japanese in connexion with the recent events in Korea would become a serious matter or not. He hoped that, lacking encouragement from the Nanking Government, it would soon die out and that nothing in the nature of a Japanese boycott would be instituted.

3. Turning to Wanpaoshan His Excellency remarked that this was being treated locally, and that conversations were taking place at Mukden with the object of trying to avert a repetition of the anti-Korean incidents in Manchuria which had been so numerous during the last year. Incidentally, the Baron mentioned that a member of the Japanese Legation at Peking had visited the young Marshal not long ago in hospital. He had found him on the way to recovering from his serious illness, but it was pretty clear that he would not be fit for serious work for some months to come. Incidentally, his recovery was retarded by the regrettable fact that he was a drug addict.

4. *Prima facie* it appears that it would be rather difficult for the Japanese Government to treat the anti-Chinese movement in Korea with the Nanking Government, and the anti-Korean movement in Manchuria with the Mukden authorities. The two questions are really part of one whole, but it is quite possible that, in the present condition of China, the Japanese may succeed in keeping them apart.

5. I have sent a copy of this despatch to His Majesty's Minister at Peking, who has already received copies of the enclosures.

I have, &c.,

F. O. LINDLEY

P.S. Since this despatch was typed I have received a further despatch from His Majesty's Acting Consul at Dairen, copies³ of which I also have the honour to enclose, respecting the Manchurian Young Men's Federation which was referred to in paragraphs 6 and 7 of Mr. Dening's despatch No. 67.

³ Not printed.

Mr. Dening (Dairen) to Sir F. Lindley (Tokyo)

No. 67

DAIREN, July 9, 1931

Sir,

With reference to my despatch No. 56⁴ of the 8th June, a survey of Sino-Japanese relations in Manchuria during the past few weeks leaves one with the impression that feeling is daily growing more intense, and that while Japanese officialdom appears so far to have behaved with considerable patience, the Chinese have made no effort to curtail their policy of anti-Japanese agitation, amounting at times to acts of physical violence.

2. The most serious of the incidents recently has been a recrudescence of the Wanpaoshan affair, when several hundred armed Chinese farmers interfered forcibly with the work of Koreans engaged in digging an irrigation ditch. In the resultant clash between the Japanese police and the Chinese, firing was apparently indulged in freely by both sides, but with a happy absence of casualties. In this connexion I have the honour to enclose an interesting memorandum by Mr. H. W. Kinney⁵ received yesterday. Mr. Kinney claims to give the actual facts of the incident, and his main object appears to be to contradict the exaggerated and inflammatory accounts which have appeared in the local press.

3. In the neighbourhood of Tahshihchiao early in June, some Japanese policemen, returning from a festival, were fired upon by Chinese police, who were subsequently arrested by a detachment of Japanese police sent from Newchwang. His Majesty's Consul at that port also records other incidents, such as the beating of an old woman by Chinese police, and the arrest and beating of three Japanese by Chinese police for preventing ragamuffins from stealing empty bottles.

4. As I have said before, the eviction of Koreans from their paddy fields is perennial, and the 'Manchuria Daily News' now reports fresh evictions in the neighbourhood of Petuna (Fuyu), but it is always noticeable that this trouble reappears whenever anti-Japanese feeling is particularly high. According to His Majesty's Consul-General at Seoul, however, there has, on this occasion, been a violent anti-Chinese reaction in Korea which may not be without its effect on the future attitude of the Manchurian authorities.

5. The local Japanese press has been active in its discussion of these incidents in the past few weeks, and loses no opportunity to point out the insolence and perfidy of the Chinese, while noticeable amongst its tendencies is an effort to belittle the Nanking Government as much as possible.

6. In June an organisation, called the Manchuria Young Men's Federation, held a mass meeting at a local Dairen theatre under the chairmanship

⁴ Not printed. This despatch reported evictions of Korean tenant farmers in the Changchun district by the Kirin Government.

⁵ Not printed. Mr. Kinney was an American publicist attached to the South Manchuria Railway Company.

of a South Manchurian railway official. This meeting was attended by delegates from various parts of Manchuria, and the general tone of the speeches, according to the press, was that Japan's half-hearted diplomacy had been a complete failure and that a continuance of the present Chinese attitude was not to be tolerated. A number of resolutions were adopted with acclamation, the first of them, as reported by the press, being as follows:—

- (a) The quadruple administration in Manchuria⁶ should be abolished and a powerful central administration set up in its stead.
- (b) A proper organ of Japanese public opinion should be established.
- (c) In place of the railway negotiations, broader negotiations should take place based on existing Sino-Japanese treaties.
- (d) Anti-Japanese education by the Chinese should be put a stop to.
- (e) The friendly concert between the various races inhabiting Manchuria and Mongolia should be achieved.

7. There appears to have been a slightly Jingoistic tone about the meeting, and it is interesting to note that the chairman, as a railway official, should have taken it upon himself severely to criticise the four-fold administration.

8. Baron Okura, an experienced director of the South Manchurian Railway Company, of whom mention has frequently been made in past despatches from this consulate, has also been committing himself to print in the shape of a series of articles on the future of Sino-Japanese relations in Manchuria. So far he has not said much that is new, but in his defence of the Japanese ideal he denies that the Japanese in Manchuria have been culturally aggressive, and there is a note of warning when he refers to recent Chinese opposition and agitation, and speaks of Sino-Japanese relations being 'strained to snapping point'.

9. To add fuel to the flame the 'Manchuria Daily News' published a Dentsu⁷ telegram of the 4th July, in which it was stated that China's 'nerves' having been 'set on edge' by the increase of the Korean garrison and the changes in the Government-General and in the presidency of the South Manchurian Railway, the Nanking Government had framed the following resolutions which had been sent to Chiang Kai-shek for approval:—

- (a) The recovery of the Chinese Eastern Railway to be effected at an early date, after which the recovery of the South Manchurian Railway should be negotiated with Japan.
- (b) The exclusion of Korean immigrants from Manchuria, and measures for the expulsion of those already resident.
- (c) Subjects of dispute between the Japanese and the Mukden authorities to be transferred to Nanking where local settlement is considered disadvantageous to Chinese interests.

⁶ i.e. the administration of Japanese interests in Manchuria by the Kwantung Government (representing the Japanese Ministry of the Colonies), the Japanese Consulate-General at Mukden (representing the Japanese Foreign Office), the South Manchuria Railway Company and the Japanese Army in Manchuria.

⁷ i.e. Nippon Dempo Tsushin, a Japanese news agency.

- (d) The impression upon the Chinese people of the gravity of Manchurian-Mongolian questions and the raising of a national outcry against Japan.
- (e) Concerted action between central and provincial authorities in pending issues with Japan; private organisations being caused to start anti-Japanese demonstrations if necessary to support the Government policy.

10. In the monthly supplement of the 'Manchuria Daily News' there is a cartoon of a Japanese being assaulted with rotten eggs by a Chinese, while behind the former, for protection, stands a Korean woman. The cartoon bears the heading: 'Forbearance tried—how much longer will he hold out?'

11. All this is press talk, and one has long since ceased to attach too much weight to the vociferations of the local Japanese newspapers. But their power to cause further Sino-Japanese estrangement cannot be overlooked, and it would be surprising that they are allowed so much licence if one did not know that the press is largely ignored by Japanese officialdom.

12. There is little opportunity of learning at present the attitude of the senior officials, for the new president and vice-president of the railway company have not yet arrived, while most of the directorate are away in Japan, and Baron Okura, who is one of the most accessible of them as a rule, is largely an invalid. When Count Uchida arrives, however, it is possible that in his inaugural speeches he may give some indication of what the Japanese attitude is likely to be towards the obstinately contentious stand taken by the Chinese. It is, of course, not improbable that the four-fold administration is once more at variance on the point, though the appointment of an ex-Foreign Minister as president of the railway should bring at any rate two of the conflicting influences closer to one another.

13. Copies of this despatch have been sent to His Majesty's Minister at Peking and to His Majesty's consular officers at Mukden, Seoul and Newchwang.

I have, &c.,
M. E. DENING

No. 494

Sir M. Lampson (Peking) to Mr. A. Henderson (Received September 15)

No. 1040 [F 4927/3793/23]

PEKING, July 18, 1931

His Majesty's Minister, Peking, presents his compliments to H.M. Principal Secretary of State for Foreign Affairs, and with reference to Peking Despatch No. 1027¹ of July 15 transmits herewith copies of a report from the Military Attaché regarding the bearing of the Sino-Korean incidents on the general situation in Manchuria.

¹ Not printed.

Colonel Badham-Thornhill to Sir M. Lampson

No. 16

PEKING, July 13, 1931

Sir,

I have the honour to submit the following observations regarding the situation in Manchuria as emphasised by the recent Chinese-Korean clash at Wan-pao-shan.

2. In this office Report III² dated 23rd January 1931 on the Chientao area, there occur many passages indicating that sooner or later clashes between Koreans and Chinese would be the rule rather than the exception in the Kirin province of Manchuria. Unpleasant incidents culminating in this latest outburst show that the possibilities set out in the Report were in no wise exaggerated. This affair, in which bloodshed on both sides has only just been avoided, has already had a widespread re-action in Korea where several hundreds of Chinese have been killed or severely wounded by Koreans. The Japanese have little love for the Chinese but to maintain, as the latter do, that the police actively encouraged the rioters is probably very far from the truth. Nevertheless it must be acknowledged that, whatever the view-point, the Japanese have now to admit that it is not only in China that foreign lives are endangered when mass riots break loose.

3. The Wan-pao-shan and similar incidents, insignificant in themselves, are really only important as symptomatic of a very serious state of affairs. Chinese Japanese relations in Manchuria, never more than bearable, have now reached such a pitch that unless the protagonists speedily alter their view points something in the nature of a serious explosion will surely occur.

4. Chang Tso-hsiang, the Governor of Kirin, gave me the number of Koreans in Kirin as over 500,000. There were 300,000 in the territory around Mukden with a minority in Heilungkiang and Eastern Inner Mongolia. He assured me that the far afield pockets of Koreans in his province were subsidised by Japanese Development Companies; otherwise they could not be in a position to buy or rent land as they do from indigent Chinese land-owners.

He had issued regulations against aliens owning land but only with the idea that the Koreans should become naturalised Chinese. There were no real reasons why the Korean should be barred but in view of the fact that the Japanese were using this immigration for political purposes, he thought he could not act otherwise than do everything in his power to keep the Korean out.

His policy of inducing Chinese settlers to come to East Kirin had failed owing to the uncertainty of the situation due to the presence of Japanese police in the area.

5. This being the state of mind of the highest Chinese official concerned with the Korean immigration question it is little wonder that the movement

² Not printed.

has come to be openly regarded as the spearhead of Japanese penetration into Manchuria.

6. My observations are that both sides are now in a dangerous mood. There is now enough explosive material to produce a crisis at any moment. All reports shew that the Manchurian authorities are now employing the same irritating tactics anent the Japanese as they did towards Soviet Russia before armed penetration brought them up with a round turn. The Japanese in their turn have a fixed idea that Manchuria will one day be theirs; the only question for decision is the opportune moment. The particular sequence of events to be seized on, as an excuse for occupation, can always be manufactured at short notice.

7. Persistent reports to the effect that the Japanese propose (a) to increase the number of soldiers in Manchuria by keeping a permanent division in the country instead of relieving the men every two years and (b) to increase the garrison of Korea by one division with headquarters at Taiden, add colour to the impression that their military preparations for 'Der Tag' are keeping pace with the forceful economic penetration that is now so prominent a feature of Japanese policy in Manchuria.³

I have, &c.,

G. BADHAM-THORNHILL
Military Attaché

³ This report was minuted on September 17 by Mr. Charles and initialed by Mr. MacKillop as follows: 'Col. Badham-Thornhill is getting prematurely scared over the situation. N. Charles.' 'D. M.'

No. 495

Sir F. Lindley (Tokyo) to Mr. A. Henderson (Received August 21)

No. 392 [F 4555/1975/23]

Sir,

TOKYO, *July 23, 1931*

It may be of interest to put on record my first impressions of the changes which have taken place in Japan during the twenty-three years which have elapsed since I served in Tokyo as a second secretary. At that time the Japanese had just emerged from a victorious war against Russia, during which they had received the full diplomatic and financial support of Great Britain, who was then their ally. It is not surprising that in these circumstances His Majesty's Embassy then enjoyed a position which was in no way approached by that of any other country; and the British people enjoyed a popularity not shared by the subjects of any other Power. Moreover, apart from the war, it can be said that the whole development of Japan from the position of a mediæval oriental country to that of a first-class Power had been not merely facilitated but rendered possible by the financial support of the City of London, where money had been constantly forthcoming on reasonably favourable terms both for Government and private enterprise in Japan.

2. The abolition of extraterritoriality, or treaty revision as it is called in

Japan, had finally been accomplished only nine years before. The whole burden of the long negotiations had been borne by the British representatives; and the success of those negotiations had been due to the lead taken by, and the friendly attitude of, His [Her] Majesty's Government. In trade and commerce Britain easily led the way; and the British communities in the principal ports of Japan were numerous, influential and flourishing. The supremacy of the British navy on the seas appealed especially to a seafaring country such as Japan. In short, it may be said that Great Britain was first and the rest nowhere.

3. It is difficult to imagine a greater change from this state of affairs than exists at the present moment. The events of the war, the abolition of the alliance, the financial difficulties in London, the reduction of the British navy, the serious situation in India, the enormous development of Japanese industry and, finally, the earthquake of 1923, which completely destroyed Yokohama, have combined to reduce our predominant position to one of a very modest character; and there can be no doubt that the country which now looms far larger in Japan's eyes than any other is the United States of America. If the Japanese wish to raise money now they look to New York rather than to London; and, as regards trade and commerce, America is of far greater importance to them than the United Kingdom. Moreover, American business methods appear to appeal to Japanese mentality; and propinquity inevitably draws the Japanese to the United States for educational and other purposes, just as it draws American rather than British visitors to Japan. Politically, the fact that a number of American publicists see a possible enemy in Japan makes the Japanese peculiarly sensitive to the attitude of the United States Government in all current questions.

4. There is only one direction in which I am inclined to think the British position is still superior to that of any other country. I refer to the intimacy which has grown up in the last twenty-three years between the members of the House of Japan and those of Windsor. I have been much struck during my short stay here by the genuine regard which the Imperial Family have for our own Royal Family. This is an asset of real value in the present stage of Japan's evolution; since reverence for the Imperial House is still a factor in politics and will continue to be so long as the present older generation of Japanese statesmen control affairs. Amongst such men, though Great Britain is not considered a political factor of the same importance as the United States, I should still say that she is respected and liked above any other country. This gives the Embassy and British subjects a social prestige superior to that of others. Such prestige has its political and even commercial value in Japan.

5. In 1908 Japan's vital interests on the mainland were confined to Manchuria and Korea. Her victorious war had made her master of the former province and established her firmly in the latter country. Since that date she has successfully swallowed Korea; but, whilst her material interests in Manchuria have grown enormously, her political ascendancy is far less assured. Instead of the old Russian threat, which she successfully repelled, she is faced not only by a more insidious danger from the north, but by a new and more

formidable threat from the growing truculence of the Chinese themselves. One has only to consider how the Japanese dealt in 1908 with any attempt on the part of anyone to build railway lines parallel to the South Manchurian Railway in defiance of treaty engagements to realise the change which has taken place. Such lines are now being both planned and built by the Chinese with only half-hearted protests from the Japanese.

6. Nevertheless this vacillation in Manchuria is not due to fear of these new dangers. It is, as is well recognised, due to the fact that the Japanese have in the last twenty-five years built up such great interests in China proper that it has become a question whether they do not outweigh in importance their older commitments in Manchuria. They find themselves thus in the standing dilemma of having either to give way in Manchuria or face a boycott in China. Their perplexity is increased by the prevalence of new political doctrines. Having given fifty years of incredible industry and self-discipline to assimilate Western ideas with such success that they raised themselves to the standing of a great Power with the goodwill of the British and the help of the alliance, they are now told that these ideas are all wrong, that alliances are evil things and that great Powers shall count for no more than small. Whether they will assimilate these new ideas as they did the old in another fifty years remains to be seen. All that can be said now is that they have not done so yet; and that the new indecision and extreme caution of their world policy is due, not to the Kellogg Pact or kindred phenomena, but to a very real perplexity as to where their true national interests lie. In common parlance, they don't know where they are.

7. The Genro, that remarkable body of men who raised Japan to her present importance, have, all save Marquis Saionji, disappeared since I was last in the country; and democratic parliamentary government has made certain advances in consequence. But the struggle is so far from over that the outcome seems to me extremely doubtful. For the Privy Council has either acquired or been accorded many of the attributes of the Genro. The most important of all questions for the future of this country seems to me to depend upon the outcome of the rivalry between the Privy Council and the Diet and the ideals which these two bodies represent. Will Japan continue, as in the past, to be governed by elderly men of proved administrative experience and integrity, but aloof from popular politics, or by popularly-elected politicians? This question did not exist in 1908.

8. 'Dangerous thoughts' were not unknown here twenty-five years ago. There was always an undercurrent of radicalism both amongst intellectuals and working men. Naturally enough, this movement has increased, and the most advanced side of it has crystallised into communism. At the moment of writing a trial of Communists is proceeding, and the daily papers are made unusually amusing by reports of the laborious efforts of the accused to explain, and of the judge to refute, the pure dogma of Moscow. Such a spectacle would not have been tolerated twenty-five years ago; and there is, in general, more liberty of thought and speech than there was. This may sound surprising to those who only know the present-day activity of the police and the

lengths they still go in suppressing 'dangerous thoughts'. It is the custom of foreigners, and especially of Englishmen and Americans, to take it for granted that this suppression defeats its own object. They may well be right, and I have been here too short a time to form my own judgment. But it is worth recalling that the Japanese have always been particularly receptive to new ideas; and that most historians agree that the Jesuits would have succeeded in converting the whole nation to Christianity in the 16th century had not the most ruthless persecution destroyed converts by tens, if not hundreds, of thousands. Communism is also a new religion, though based on hate instead of love; and it is conceivable that the Japanese know their own people better than we do; that the danger of a wholesale spread of communism is a real one, and that the persecution to which Communists are undoubtedly exposed is the most efficient means of meeting it in Japan.

9. To turn to matters of less importance. The earthquake of 1923 has produced more striking changes in the neighbourhood of the capital than the mere passage of time. Yokohama was completely destroyed, and, with the destruction of their homes, has disappeared a large part of the foreign community and British colony, which gave to the port rather the aspect of an old treaty settlement than of a Japanese town. In this respect, the earthquake hastened a movement which was in any case inevitable. The long stagnation of British trade during the war had, in any case, put our people at a disadvantage of which the Japanese availed themselves fully. Even such institutions as the Hongkong and Shanghai Bank and the Chartered Bank are no longer finding business profitable in this country; and I am assured that most of the British merchant houses are only hanging on by their eyelids—if I may use the expression. This situation is partly due to the present depression; it is principally caused by the fact that the Japanese are now capable of doing almost all their own business themselves and require less and less foreign assistance. The changes in this respect will be best appreciated by the fact that, when I was here before, most of the Nippon Yusen Kaisha passenger liners were still commanded by British captains.

10. Although Tokyo has been almost completely reconstructed since 1923, it would be a mistake to suppose that the town has, as a whole, lost its Japanese character. There are some quarters where whole streets have become entirely Western in aspect; but the greater part of the town has been rebuilt on Japanese lines—the biggest innovation being the construction of broad asphalt roads. These carry an ever-increasing number of motor cars and bicycles, which have completely driven out the old rickshas and horse carriages. This change of locomotion has brought about a certain alteration in the habits of the inhabitants—the number of young men of the coolie class wearing European clothes being far greater than it used to be. So far as I can judge, this westernisation of the capital has not yet produced any striking change in the manners of its inhabitants. All classes seem to be as polite and friendly to strangers as they were in the past; and the only alteration in this respect which I have been able to detect is a marked increase in the self-confidence of what, for lack of a better term, are called the upper classes.

They appear far more sure of themselves in social intercourse than they used to be, and this seems to make them a good deal easier to deal with and more agreeable to meet in society. The coming of the motor car has made little difference in the country districts, where the roads remain, no doubt owing to the drain on the national resources caused by the earthquake, in a condition more suitable to pack-ponies than to wheeled traffic.

11. Finally should be noted one of the most remarkable changes which may have considerable influence on the race. I refer to the great popularity of game playing. Baseball, which I never saw in Japan when I was last here, may now be called a national game. It is played on any open space available, and reports of baseball matches fill a large part of the papers. Golf, which was practically unknown twenty-five years ago, is now played enthusiastically by all those who can afford it; and amongst the members of the Tokyo Golf Club are to be found a great number of the leading men of the country. Considering the expense of the game in this country, it is extraordinary to me that there should be so many golf clubs as there are. The entrance fee to most of these is about £100; and the price of land in Japan is such that it is no uncommon thing for a club to have to expend as much as £100,000 on the purchase of a course. Lawn-tennis has also greatly developed in the last twenty-five years, and the Japanese players are amongst the first in the world. Cricket is, I am sorry to say, in a somewhat less satisfactory condition than it was twenty-five years ago; and the decline of the British colonies has unavoidably reduced the interest in our national game.

12. The above sketch of the present position, in so far as it regards Great Britain, must necessarily appear a gloomy one; but it seems to me more useful to see matters as they really are than as one would wish them to be. It has been suggested in some quarters that a remedy is to be found in an extensive campaign of well-planned propaganda. Were our loss of prestige and influence here due to an insidious and hostile publicity campaign, there might be something to be said for the notion. But there is no trace of such a campaign; and I have been agreeably surprised at the fullness of the British news and the impartial, and often friendly, treatment of it in all the Japanese newspapers published in English, which I have read daily for the last three weeks. The American-owned 'Japan Advertiser', often dubbed 'intensely anti-British', is no exception. Much better face the facts and save our pockets by realising that our prestige will return and our influence gain accordingly when British trade becomes a dangerous competitor in the Far Eastern market, when the City is able to accommodate Japanese borrowers, when our unemployed are reduced to normal figures, when our budget shows a surplus, making a reduction of taxation possible, when our people are sufficiently prosperous to visit Japan as they did twenty-five years ago, and, last, but far from least, when order reigns in India and the British position is assured there and throughout the Empire. Such were the solid bases of our old prestige, and it is idle to imagine that propaganda can replace them.

I have, &c.,

F. O. LINDLEY

Sir F. Lindley (Tokyo) to Mr. A. Henderson (Received August 21)

No. 393 [F 4556/3793/23]

TOKYO, July 24, 1931

Sir,

In my despatch No. 373¹ of the 16th instant, relative to the recent anti-Korean and anti-Chinese incidents in Manchuria and Korea respectively, I had the honour to express the opinion that, while the Japanese Minister for Foreign Affairs had intimated to me that the Wanpoashan [*sic*] incident was being dealt with locally, it would appear difficult for the Japanese Government to treat the anti-Korean incident in Manchuria with the Mukden authorities and the anti-Chinese movement in Korea with the Nanking Administration.

2. That the Nanking Government are not content to permit the Wanpoashan incident to be regarded purely as a local matter seemed clear from the press, which reported yesterday that the Nanking Government had forwarded a note to the Japanese Chargé d'Affaires on the 22nd instant regarding Wanpoashan, in which the following demands were made:—

- (a) The withdrawal of Japanese police from Wanpoashan.
- (b) The withdrawal of all Koreans from Wanpoashan.
- (c) The thorough revision of contracts between Chinese and Koreans in the Wanpoashan District.
- (d) That damages be paid to the Chinese farmers concerned.
- (e) That a joint committee be set up to investigate the damages which the Chinese suffered at Wanpoashan.

3. It was further reported in the press that during an interview which took place on the 21st instant between Dr. C. T. Wang, the Chinese Minister for Foreign Affairs, and Mr. Shigemitsu, the Japanese Chargé d'Affaires, Dr. Wang declared that the investigations had revealed that Japan, and not China, was to blame for the incidents.

4. I called this morning on Mr. Nagai, Vice-Minister for Foreign Affairs, who informed me that, though the Japanese Government had not yet received the text of the Chinese note, the telegraphic summary made it clear that the press report was substantially correct. I did not press him as to the willingness of the Japanese Government to treat with Nanking rather than with Mukden regarding Wanpoashan, but I should be inclined to say from his attitude that they would not refuse to do so. In any case, the dispute, which has been going on for years, is unlikely to be settled in a hurry.

5. As regards the more serious questions arising out of the massacre of Chinese in Korea, Mr. Nagai stated that the Nanking Government spoke with two voices. Strong notes had been presented, and at the same time assurances had been given that nothing in the nature of a boycott of Japanese goods or reprisals of any other kind would be tolerated. It was too early yet

¹ No. 493.

to foresee how the anti-Japanese agitation, which had been fostered at Shanghai and elsewhere, would develop. It might become serious, but Mr. Nagai was inclined to think it would die down. The Chinese Minister at Tokyo had visited Heijo, where the worst riot took place, and had been given every facility to make an independent enquiry. No doubt much would depend upon the nature of his report, which had not yet been made known. He believed that it contained a passage to the effect that, while every possible step had been taken by the Japanese authorities to protect the Chinese after the riots were over, insufficient precautions had been taken before.

6. Finally, in reply to a question of mine, Mr. Nagai stated that the Canton authorities showed no sign whatever of encouraging anti-Japanese agitation.

7. I am sending a copy of this despatch to His Majesty's Minister at Peking.

I have, &c.,
F. O. LINDLEY

No. 497

Memorandum by Mr. Roberts

*Sino-Japanese Relations in Manchuria and the Mukden Negotiations on
Manchurian Railway Problems*

[F 4123/10/10]

FOREIGN OFFICE, July 27, 1931

Although the most vexed question immediately affecting Sino-Japanese relations is that of the recent disturbances in which Korean lives were lost in Manchuria and Chinese lives in Korea, that of the railway development of Southern Manchuria, involving the special position of Japan in that province and in Inner Mongolia, is of more fundamental importance. There have recently been signs that Japan at least wished to bring about an amelioration in Sino-Japanese relations by coming to some agreement as to future policy on this important question.

At the beginning of 1931 a distinctly optimistic tone prevailed both in official circles at Tokyo and in the Japanese press as to the possibility of conciliating China without prejudicing Japanese interests. On the 22nd January Baron Shidehara (the Japanese Minister for Foreign Affairs) delivered an important speech in the Chamber¹ in which he stressed the importance of close co-operation between China and Japan based upon what he termed a common realisation of their mutual interdependence. He spoke sympathetically of China as following the trail once blazed by Japan, and finally declared his intention of endeavouring to settle the various questions about Manchurian railways which had been left unsolved for a number of years. This speech was doubtless intended to allay fears expressed in the Japanese press in Japan and in Dairen that the effect of the reconciliation between Mukden

¹ See No. 354.

and Nanking would be an aggressive policy of railway construction in Manchuria adversely affecting Japanese vested interests. At this time Baron Shidehara's intentions appeared so liberal that he was even suspected of readiness to relinquish Japan's special rights in Manchuria, apparently on the strength of a statement attributed to him with very little authority to the effect that the preservation of Japan's growing share of the China trade would be worth the loss of her privileged position in Manchuria. Incidentally it may be noted that the value of the Manchurian trade of Japan even in a year of great depression in the north-eastern provinces forms one-third of her total China trade, and, even leaving out of consideration the extreme importance to her home industries of Manchurian iron and steel and the sentimental, but none the less powerful, arguments handed down from the Russo-Japanese war, Japan is not in the habit of abandoning a bird in the hand even for two in the bush.

In spite of Baron Shidehara's admittedly liberal policy, it would be misleading to accept the theory that he is ready for extreme concessions to placate Chinese nationalism. Even in his speech of the 22nd January he insisted that China must fulfil certain pre-conditions, e.g., an effective exercise of authority, the rule of law, &c., before the unequal treaties could be abrogated. Subsequent policy, both as regards the difficult situation which has developed recently in Manchuria and Korea and over the South Manchurian Railway negotiations, shows that there are very distinct limits to Japanese concessions.

The South Manchurian Railway authorities, through hints dropped by their very capable British [*sic*] propaganda agent, Mr. Kinney, have shown that they fully realise that China is showing signs of attacking the position of the South Manchurian Railway as she attacked that of the Chinese Eastern Railway in 1929. Her methods are less direct, but therefore all the more likely to be successful, since they make greater allowance for the time factor, China's greatest asset in Manchuria. Mr. Kinney himself sees a possibility of Japan giving way to China much as Russia was compelled to give way to Japan in South Manchuria, but the Japanese will not allow this to happen without a struggle.

The essence of the whole question is how far there is room for both Chinese and Japanese in South Manchuria, and whether the amazing economic development of the three provinces is likely to continue sufficiently rapidly to justify the construction of Chinese railway lines and ports purely on economic grounds without injuring the South Manchurian Railway or the Japanese port of Dairen. The main Japanese weapon in the controversy is the famous 1905 agreement, by which the Chinese are debarred from building lines parallel to the South Manchurian Railway and likely to strangle its carrying trade.² Many other lines have been built, often with Japanese funds and engineers, and these have been so skilfully planned that the construction of a few connecting links will in effect join up purely Chinese lines capable of competing directly with the South Manchurian Railway. The Chinese have many schemes for making these links, and periodically announce that they

² See No. 728, note 2.

have decided upon some such scheme as, e.g., to connect the Kirin-Hailung-chang and the Kirin-Changchung lines at Kirin or to effect a junction with the Russian lines at Blagovestchensk or Habarovsk by lines running north-east parallel to the Sungari. Other schemes, such as that for extending the Hu-Hai Railway, are entirely unobjectionable from the Japanese point of view. The latter have hitherto refrained from opposing individual schemes, probably because they realise that these must necessarily be delayed and remain purely paper schemes owing to lack of funds. In this connexion it is interesting to note that the German Counsellor at Tokyo, in conversation with Mr. Snow, confirmed rumours of Sino-German plans for railway construction, opposed by the Japanese, but dropped by the Germans, not on this account, but rather because satisfactory financial guarantees were not forthcoming. At Hulutao the Chinese have actually commenced the construction of a port to be built by a Dutch company, but the Japanese have stated that this and its railway feeders must take at least six years to complete, by which time there will probably be room for both Hulutao and Dairen. There has therefore been no direct breach in recent years, and the 1905 agreement has been held in reserve by the Japanese, who have full information of the many schemes projected by the Chinese.

The Japanese, on the other hand, have constructed no lines on their own account since the completion of the South Manchurian Railway, although they are extremely interested in the completion of a line running east and west to connect the Korean coast at Seishin or Rashin with Kirin. A line has already been built from Kirin to Tunhua and a single-track light railway runs from Yenki to join the Korean Railway system at Kainei. This light railway traverses the disputed area of Chientao, and has been described as a dagger pointed at the Chinese heart. The Japanese are extremely anxious to convert it into a proper track and then to supply the missing link from Tunhua to Yenki. The Chinese have good grounds for fearing that this anxiety is mainly strategic to enable Japan in case of trouble to reinforce her police in Chientao and to pour troops into Kirin Province, whereas the Japanese maintain with a good show of reason that the line is needed to enable Manchurian goods to find a new and rapid outlet into Korea and to Korean ports. In any negotiations with the Chinese the Japanese would certainly endeavour to force through the construction of this line, but it is extremely doubtful whether the Chinese would consent to the completion of a line which would encourage Japanese, or rather Korean, penetration into Chientao and so into Kirin Province.

In these circumstances the Japanese Government decided at the beginning of the year to open negotiations with the Manchurian authorities for a settlement of railway questions in South Manchuria. Mr. Kimura, a diplomatist, was appointed to the board of the South Manchurian Railway with the special object of conducting the negotiations without directly involving the Japanese Government and so apparently keeping the discussions away from contentious political issues.

In spite of signs of a better spirit between China and Japan, possibly due to

common fear of communism and of the intentions of the U.S.S.R., the third party in the three-cornered struggle for Manchurian hegemony, with whom China had been on bad terms since the Chinese Eastern Railway dispute in 1929,³ and with whom Japan was recently exchanging sharp notes about Japanese fishing rights and the closing of a Japanese bank at Vladivostok, the Chinese are obviously anxious to postpone a settlement of this question until time has placed more trump cards in their hands, whereas the Japanese realise that no time is likely to be more favourable to them than the present. Consequently the overtures came from Mr. Kimura, who visited Marshal Chang Hsueh-liang at Mukden in January, but the latter did not, by all accounts, give a cordial welcome to the proposed conference. He finally consented at the end of February to appoint General Kao Chi-i to conduct negotiations with Mr. Kimura which were to be confined to technical experts. On the Japanese side delays were caused by the illness of Mr. Sengoku, president of the South Manchurian Railway. Mr. Kimura, who returned to Tokyo after six weeks spent at Mukden in icebreaking formalities preliminary to negotiations, to consult with him in April, finally returned to Mukden late in April without having seen Mr. Sengoku and with instructions to conduct negotiations purely as between technical experts. (The distinction between technical and political considerations is, however, difficult to draw in Manchuria!)

Mr. Kimura's instructions were apparently less liberal in character than might have been expected earlier in the year. Japanese public opinion, both at home and in Manchuria, had been growing restive at what it regarded as a dangerous policy of concessions which met with no generous response from the Chinese. Baron Shidehara himself emphasised to Mr. Snow that any concessions which Japan might make to China over extraterritoriality were conditional upon the retention of Japan's special position in South Manchuria and Inner Mongolia, as secured by the notorious twenty-one demands of 1915, and the new Japanese Premier, Baron Wakatsuki, made substantially the same point in a press interview. The importance attached by the Japanese Government to the whole question was further emphasised at the beginning of June, when, on Mr. Sengoku's retirement, Viscount Uchida, a former Minister for Foreign Affairs, was appointed president of the South Manchurian Railway.

The names of the technical experts appointed to serve under General Kao Chi-i and Mr. Kimura were announced in April, and a preliminary meeting at Mukden was fixed for the end of May. According to Mr. Kinney, although many Japanese might be guided by the general principle that there would soon be room for Chinese and Japanese lines in Manchuria, the 1905 agreement was to be invoked in case of need to prevent the immediate construction of competitive lines in the existing economic depression in Manchuria, although Japan was prepared, as in the past, to be liberal in regard to loans for the construction of lines of which she approved. Thus Japan was in effect preparing to use her main economic weapon, i.e., the Chinese lack of money.

³ See Appendix I.

A source of great potential danger in the negotiations was likely to be the question of freights, on which some agreement was essential. Owing to chaotic currency conditions, the Chinese lines were able to compete with the South Manchurian Railway by taking goods by a more roundabout route at a cheaper rate, and on this question the Japanese were determined to be firm and, if necessary, to begin a freight war.

Unfortunately, the much-heralded negotiations fixed for the end of May and June were once again postponed, largely because of changes in the political situation in Manchuria. Marshal Chang Hsueh-liang was taken seriously ill on his return from the People's Convention held at Nanking in May, and General Kao Chi-i, chief Chinese delegate to the Mukden negotiations, was 'taken ill on the same occasion'. Since that date disquieting developments in the general political situation, first at Canton and later in the Peking area, have kept the Manchurian authorities fully occupied, and Kao Chi-i, if he has recovered from his 'illness', will be wanted for other purposes than railway negotiations. On the Japanese side the position has not improved. Public opinion as expressed by the All-Manchuria Autonomy Federation in May demanded stronger measures against Chinese aspirations in Manchuria, minor troubles occurred in connexion with the Chinese Maritime Customs at Dairen, with Japanese fishing smacks in Chinese waters and the development by Japanese interests of oil-shale at Fushun, and, finally, in July Sino-Japanese relations became worse than they have been since 1927-28 owing to the recent disorders in Korea and Manchuria, leading to a very stiff exchange of notes between the two Governments. In these circumstances it is hardly surprising that no decisions have been reported from the Mukden conference of technical experts, and it is, indeed, doubtful whether its first meeting has yet taken place. In view of the light thrown upon Japanese and Chinese policy in Manchuria by these hitherto abortive negotiations, it has, however, been considered useful to trace the course of events since January 1931 in some detail, although it would be unduly optimistic to expect any practical results in the near future.⁴

F. K. ROBERTS

⁴ A copy of this memorandum was sent to Sir F. Lindley in Foreign Office dispatch No. 515 of October 6.

No. 498

Sir M. Lampson (Peking) to Mr. A. Henderson (Received October 14)

No. 1128 [F 5703/1391/10]

PEKING, August 4, 1931

His Majesty's Minister, Peking, presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs, and transmits herewith copy of despatch No. 212 from His Majesty's Consul-General, Shanghai, dated the 27th July, respecting the repercussion of the Korean incident and the anti-Japanese boycott at Shanghai.

Mr. Brennan to Sir M. Lampson

No. 212

SHANGHAI, July 27, 1931

Sir,

I have the honour to enclose an interesting memorandum prepared by Mr. Vice-Consul A. L. Scott, mainly from information derived from the press, regarding the present anti-Japanese agitation and the attempts which are being made to promote a boycott of Japanese goods as a protest against the Wanpaoshan affair and subsequent outrages against Chinese merchants in Korea.¹

2. Mr. Murai, the Japanese Consul-General, tells me that so far the boycott is not very effective, and the Japanese authorities hope that the Chinese political situation, with the revolt of Canton against the Nanking Government, will prevent it from becoming so. Nevertheless, it would seem that the Japanese are not happy about the situation, and fear that it may develop in

¹ Not printed. This memorandum of July 27 stated in particular:

'It is difficult as yet to estimate the amount of genuine feeling behind the boycott. The agitation is certainly sponsored by the Chinese Chamber of Commerce and not by special boycott organisations as in the past, while merchants may be reacting in some degree to the treatment meted out to their fellow-traders in Korea, and manufacturers of Chinese goods with which Japanese products have competed in the past are naturally making the most of their opportunity to expand the movement for the use of 'national goods'. It must, however, be remembered that the Chinese Chamber of Commerce since its reorganization has been mainly a political organ, and is no longer truly representative of Chinese merchants. The impression gained, therefore, is that the driving force behind the present anti-Japanese boycott is mainly political, and that merchants are yielding to the wave of agitation in the hope of minimising their losses, and controlling the agitation as soon as feelings are allowed to simmer down. The local party headquarters are using the riots in Korea as a stick to beat the Nanking Government with, and attacks have been made on Dr. C. T. Wang for his weak diplomacy. Feeling in the matter curiously enough is reported to be stronger among merchants (at least those not directly interested in trade with Japan) than among officials. On the other hand, it is said that Yu Ya-ching, while nominally chairman of the Executive Committee of the Anti-Japanese Association, is by no means an enthusiastic supporter of the agitation. . . .

'Information obtained from Japanese sources indicate[s] that while it is too early to say what the effect of the boycott will be, a strong effort is undoubtedly being made, and will probably increase in intensity, and there are probabilities that attempts at violence may be committed. The first Japanese-owned goods (twenty bales of cotton, owned by the Nippon Menkwa Kabushiki Kaisha of 8, Hankow Road) were seized on Friday, the 24th, at Pootung, by pickets of the Anti-Japanese Association, and a strong protest was lodged the following day by the Japanese consular authorities with the Mayor of Greater Shanghai and Bureau of Public Safety. After every allowance has been made for the weakness of China's position at the present time, it is to be regretted that the institution of a boycott has been considered necessary owing to the uncontrolled passions evoked by such a step, together with the licence given to private organisations to override the law, and commit all sorts of unauthorised actions with impunity. The local Chinese police, while not co-operating with the pickets, are adopting, as usual, a policy of non-interference.'

For the anti-Japanese boycott in China see further League of Nations: *Appeal by the Chinese Government: Report of the Commission of Enquiry*, pp. 112-21.

a serious direction. British shipping firms, on the other hand, inform me that, although no very effective action has yet been taken against Japanese trade in Shanghai, the boycott is in force in other places, especially on the Lower Yangtze, and British firms are benefiting by the temporary elimination of their competitors.

I have, &c.,
J. F. BRENNAN

No. 499

Sir F. Lindley (Chuzenji) to Mr. A. Henderson (Received September 12)

No. 417 [F 4887/3793/23]

CHUZENJI, August 20, 1931

Sir,

With reference to my despatch No. 401¹ of the 31st July last and previous correspondence relative to the anti-Chinese incidents in Korea, I have the honour to report that the Japanese reply to the Chinese note protesting against the massacre of Chinese at Heijo and other centres in Korea was delivered to the Nanking Government on the 9th instant. The chief points in the note, which were published in the press accurately, as the Vice-Minister for Foreign Affairs informed me, were as follows:—

- (a) The attacks on Chinese in Korea were clearly a consequence of the Wanpaoshan affair.
- (b) No negligence was shown by the Korean authorities.
- (c) As Korea is part of the self-governing Japanese Empire, private individuals have no recourse to international law.
- (d) Consequently Japan has absolutely no obligation to make compensation.
- (e) Compensation granted after earthquakes is in no sense a parallel instance.

2. In the course of a conversation which I held on the 14th instant with the Vice-Minister for Foreign Affairs, I enquired of Mr. Nagai what he felt with regard to the anti-Japanese propaganda, which, according to the press, appeared to be increasing in Shanghai and in other towns in China. He

¹ Not printed. This despatch transmitted a copy of Seoul despatch No. 47 to Tokyo of July 28, in which Mr. Royds reported that he had been informed by a Chinese Consul that half the Chinese residents in Korea had returned to China as a result of the recent riots, and that 'foreign opinion in Korea seems to be unanimously agreed that the Japanese Authorities were greatly to blame for not taking adequate steps to protect the Chinese residents in the recent riots . . . nobody can understand why, with plenty of force available, such futile measures were used to put down the mobs'. Mr. Royds concluded: 'The boycott, which is apparently now beginning in China, will probably cost Japan far more than any reasonable and generous compensation for Chinese losses here would have entailed . . .'.

admitted that it was growing more disagreeable, but thought that it was too early yet to say whether it would prove really serious.

I have, &c.,
(For the Ambassador),
A. GASCOIGNE

No. 500

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 12, 6.30 p.m.)

No. 144 Telegraphic [F 4905/1391/10]

TOKYO, September 11, 1931

My telegram No. 143.¹

According to expression used today by head of department in Japanese Foreign Office Captain Nakamura was 'very popular in the army'. I understand he was a clever special service officer. Publication of news of murder has caused an outburst of indignation not only in military circles but in the press and other powerful quarters as well as raising the feeling that had already been aroused by alleged attempts to curtail the rights of Japanese nationals in Manchuria.

Unless Chinese authorities show reason Government's hand is likely to be forced and a serious situation to arise. I am impressed by the extent to which Sino-Japanese relations have deteriorated in the last few months.

Repeated to Peking.

¹ Not printed. This telegram of September 11 reported information, similar to that recorded in the enclosure in No. 501, from the Japanese Foreign Office regarding the murder of Captain Nakamura. For this case see League of Nations: *Appeal by the Chinese Government: Report of the Commission of Enquiry*, pp. 63-66.

No. 501

Letter from Mr. Saito to Mr. Charles

[F 4921/1391/10]

JAPANESE EMBASSY, LONDON, September 11, 1931

Dear Mr. Charles,

I am sending you herewith enclosed facts about the murder of Captain Nakamura which information we have received from home by telegraph.

Believe me,

Yours sincerely,
HIROSI SAITO

ENCLOSURE IN No. 501

Murder of Captain Nakamura

Captain Shintaro Nakamura, a member of the general staff of the Japanese Army, who had been travelling through North Manchuria since May last, left the Chinese Eastern Railway for Taonan at the beginning of June, accompanied by a certain Entaro Isugi, proprietor of a Japanese hotel in Ang-Ang-Chi. As he did not arrive in Taonan on the anticipated date and no news of him was received, the authority concerned started a close investigation which revealed that on the 26th or 27th of June Captain Nakamura and his companion had been arrested by a detachment of the Chinese Army at Min-An-chen and on the 1st of July they were shot dead. Their bodies are believed to have been burned and their money and valuables plundered.

On the 17th August the Japanese Government instructed Mr. Hayashi, the Japanese Consul-General at Mukden, to make a representation to the Chinese North-Eastern authorities demanding apology for the incident, punishment of those responsible, indemnity for those killed and assurance for the future.

The Chinese authorities, insisting on the necessity of the investigation of the fact, sent a mission for that purpose which returned without concrete information. A second mission was despatched on the 6th September.

The Japanese Government, having regard to the fact that the public in Japan is being vexed on the Manchurian question in general and fearing therefore the incident might aggravate the situation if the Chinese authorities do not show any sign of sincerity for its adjustment, are exercising all their efforts to remind the North-Eastern authorities of the seriousness of the situation and to induce them to settle the matter rapidly and satisfactorily.

No. 502

Sir F. Lindley (Tokyo) to the Marquess of Reading

(Received September 17, 9.30 a.m.)

No. 146 Telegraphic [F 4872/1391/10]

TOKYO, September 17, 1931, 12.46 p.m.

My telegram No. 144.¹

Minister for Foreign Affairs informed me to-day that Mukden authorities had now admitted unofficially that Captain Nakamura had been murdered. His Excellency considered that there was good prospect of incident being satisfactorily settled.

Minister for Foreign Affairs was confident that Japanese Government would be able to resist public agitation and irresponsible military pressure for strong action.

Repeated to Peking.

¹ No. 500.

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 13)

No. 459 [F 5636/1391/10]

TOKYO, September 17, 1931

My Lord,

In my telegrams Nos. 143¹ and 144² of the 10th and No. 146³ of the 17th instant I had the honour to advert to the recent deterioration of Sino-Japanese relations, and it may be useful to give a short account of the reasons which appear to have led up to that deterioration.

2. The present Minseito Government, with Baron Shidehara as Foreign Minister, came into power some two years ago with the avowed object of reversing the 'strong' Chinese policy of General Tanaka. Unlike many other Governments with intentions of this kind, they did, as a matter of fact, follow a really conciliatory policy, with the result that, for two whole years, there was a remarkable absence of apparent serious friction between China and Japan. Under the surface there was, of course, not only the usual mutual suspicion, but, especially in Manchuria, a growing accumulation of concrete grievances which failed to yield to the blandishments of the new policy.

3. The surface was first seriously ruffled by the Wanpaoshan affair in June [July] of this year, followed quickly by the massacre of Chinese in Korea, which, in its turn, gave rise to an attempted boycott of Japanese goods in parts of China. About the same time the murder of Captain Nakamura, an officer of the Japanese General Staff, in Manchuria became known to the public. The fat was in the fire, leaving the Shidehara policy very near the melting-pot.

4. Whether the public anxiety roused the army or, as is more probable, the General Staff alarmed the public, we find General Minami, Minister of War, publicly expressing the opinion early in August that the situation in Manchuria and Mongolia was serious and likely to get more so, and that this state of affairs was due to the decrease of the Japanese people's 'courage and spirit' (see my despatch No. 410⁴ of the 13th August). Plenty of others shared the General's opinion, and the papers have since that time been daily taken up with the China situation. The articles and protagonists in favour of strong measures have been in the majority, and their favourite argument has naturally been reference to the Soviet experience in 1929. It was then shown that the Chinese were impervious to reason or to argument, but yielded at once to a very modest display of force. On the other side, writers are not wanting to point out that the situation of Japan is quite different to and far more delicate than that of the Soviet, and advocate a steady adherence to the line of conciliation, tempered, perhaps, by slightly more firmness than has been apparent hitherto.

¹ See No. 500, note 1.

² No. 500.

³ No. 502.

⁴ Not printed.

5. The irritation of the public is fed by telegrams from China, reporting statements by leading Chinese to the effect that Captain Nakamura was never murdered at all. He was living in comfort in some hidden spot and the Japanese had invented the whole business. Chiang Kai-shek has added fuel to the fire by accusing the Japanese, according to the telegrams, of supplying Canton with arms against Nanking and of having come to some nefarious compact with Eugene Chen⁵ during the recent visit of that interesting Barbadian⁶ to Japan.

6. If there is exasperation in Japan, it is not surprising that there is acute anxiety amongst the Japanese inhabitants of Manchuria. The state of mind prevailing amongst them is well described in an interesting despatch from the acting British Consul at Dairen, of which a copy is enclosed. There, too, feeling appears to be hardening in the direction that 'something must be done'—a state of mind commonly leading to some precipitate and ill-considered action. I had the advantage of a long conversation myself to-day with Mr. Kinney, the American publicist attached to the South Manchuria Railway Company. Although his business is to present the Japanese point of view, he is a man of experience and common-sense. His mind was evidently running on the possibility of Japanese interference with the working of the Chinese railway lines which cross occupied territory as a means of pressure; but he was most impressive when he described the bitter hatred of the Chinese against the Japanese and the constant stream of propaganda by which it was fed. He is about to attend the Pacific Conference at Hangchow.

7. Such is the background to the long conversation I had with Baron Shidehara this morning. I began by asking His Excellency whether he could tell me the truth about Captain Nakamura. He replied that the captain was arrested by a Chinese officer belonging to a force called, if I remember right, Reconstruction troops. In any case, it was a body of men employed on the Manchurian and Mongolian frontier both as pioneer settlers on the land and as troops. They were very hard hit by the failure of markets for their produce and by the fact that their pay was in arrears. With Captain Nakamura was another Japanese, a Mongolian and a White Russian. They were all arrested, but allowed for some days to have their meals at a Chinese inn. Then one day they disappeared. The Japanese Government knew they had been murdered and Captain Nakamura's watch had been found on a Chinese soldier. The Captain was also in possession of some 3,000 yen (for what purpose the Baron failed to inform me), and there was no doubt that the party had been murdered for their money. To the first Japanese enquiries the Mukden authorities had resorted to what may be called 'Thorburn tactics'. They had denied all knowledge of the missing men. But they had now admitted unofficially that they had been murdered, and His Excellency was fairly confident that the case could be settled to the satisfaction of the Japanese. It was being dealt with exclusively at Mukden.

8. We went on to discuss Sino-Japanese relations in general. Baron Shide-

⁵ Foreign Minister of the Canton Nationalist Government.

⁶ Mr. Chen was born in Trinidad.

hara observed that it was absurd to advocate, as many of his political opponents did, the use of the Nakamura case as a lever to settle all disputes with China out of hand. Most of those disputes were of old standing and required patient negotiation if a settlement satisfactory to both sides was to be reached. Once the Nakamura case was out of the way, the atmosphere, in Japan at any rate, would be improved. In any case he did not intend to be forced into any rash action; and he was confident that the Government would be strong enough to pursue the policy they had mapped out.

9. As regards the alleged statement of Chiang Kai-shek, that Japan had supplied arms to Canton, the Baron said that he was having enquiries made as to the exact words used. The accusation was, of course, untrue, and Chiang knows it to be so. He had kept me informed of what had really passed when Eugene Chen was here (see my despatch No. 419⁷ of the 20th August), and there had been absolutely nothing beyond what I had been told. The boycott had, up to now, been one of words rather than deeds. There was no case of seized Japanese goods not being subsequently recovered.

10. Before leaving, I thought it as well to refer to the reverse side of the picture and to ask the Baron how he was getting on with the Chinese on the subject of the very regrettable massacre which had taken place in Korea. His Excellency replied with a Japanese laugh, as the Vice-Minister had done the day previously when I questioned him, that notes were still passing between the two Governments on the question. The Chinese Government were trying to make the Japanese Government responsible for what had occurred; but the latter would not admit formal responsibility, since every effort had been made by the authorities to protect the Chinese. In International Law the Government were not responsible. In reply to a suggestion of mine, that it was a curious thing that the riots took place at such an opportune moment, just when the higher officials in Korea were being changed, the baron replied that no evidence had been found pointing to a plot arranged by persons with ulterior motives. He had served for some years in a consular capacity in Korea, and had learnt that the Koreans were not only liable to sudden accesses of rage, but were capable of organising themselves with great speed. He gave examples from his own experience to support his belief that the outburst was spontaneous.

11. Your Lordship may reasonably expect some indication as to the probable course of Sino-Japanese relations in the near future. I think much depends on the fate of the Government now in office. They have already lasted two years, which is about the average life of a Government in this country. Their position has recently become weaker not only owing to the attacks on their policy in China, but also for the causes dealt with in my despatch No. 449⁸ of the 15th instant. If they succumb, they will be presumably succeeded by a Seiyukai Government pledged to a stronger policy

⁷ Not printed. This despatch reported on a press conference held by Mr. Chen before leaving Tokyo on August 14: see *The North-China Herald* of August 18, 1931.

⁸ Not printed. This despatch reported that the resignation of Dr. Egi, Minister of Railways, was undoubtedly a loss to the ministry of Baron Wakatsuki.

in China. But it would be a mistake to suppose that this stronger policy would necessarily connote some military action in Manchuria. Apart from the Chinese aspect of the situation, there is the possibility of Soviet intervention, which is certainly very present in the minds of the Japanese. Many people believe that any move of troops into South Manchuria by the Japanese would be followed by an advance of the Russians in the north. There are obvious objections to such a movement from the Soviet propaganda point of view and it might never take place. But I am inclined to think that a serious effort would be made to come to some understanding with Moscow before anything serious in a military way was undertaken by the Japanese in South Manchuria. The Cabinet is meeting to-day to discuss the whole question of Sino-Japanese relations and it is possible, though not in my opinion likely, that interesting developments may have taken place before this despatch reaches you.

A copy of this despatch has been sent by safe hand to His Majesty's Minister at Peking.

I have, &c.,
F. O. LINDLEY

ENCLOSURE IN No. 503

Mr. Dening (Dairen) to Sir F. Lindley (Tokyo)

No. 78

DAIREN, August 26, 1931

Sir,

In my despatch No. 67⁹ of the 9th July last I had the honour to give an outline of the general Sino-Japanese situation in Manchuria as it appeared at the time.

2. Since then a period of comparative quiet has supervened, but there has been no evidence of a relaxation of the tension which I reported as existing at the time. There appears to be, moreover, a gradually increasing feeling on the part of Japanese residents in Manchuria that something drastic will have to be done in the near future if Japanese interests are to be preserved and Japanese prestige maintained in these regions. The recently published accounts of the murder of Captain Nakamura and of the Chinese attack on the Kokusuikai at Tsingtao have tended further to inflame feeling, and I was interested to learn from Mr. Kinney, of the South Manchurian Railway Company, that even civilian officials, who still wish for a peaceful solution, are beginning to express doubts as to whether some more forcible form of action may not, in the long run, prove necessary.

3. Mr. Kinney was, I think, to a certain extent reflecting Japanese opinion when he said that Russia had, in 1929, administered a very salutary lesson to the Chinese at very small cost to herself. I pointed out, however, that here was a case where neither of the two Powers concerned cared very much about

⁹ Enclosure in No. 493.

outside influences, while Russia had nothing to lose and everything to gain. Mr. Kinney agreed, but went on to discuss what corrective measures the Japanese might possibly think fit to take. Apart from military action, he advanced, entirely as his own idea, the theory that they might foreclose on the Manchurian railways, such as the Taonan-Tsitsihar, for which they have advanced loans.

4. Mr. Kinney, who had called upon me to deliver in person some commercial information for which I had asked, thought fit to warn me that, in future, I might experience more difficulty in obtaining information. I expressed some surprise that I had already been refused a copy of the railway company's business report for the last financial year, which was in no way confidential, and which had always been furnished before. Mr. Kinney indicated in his reply that the Kwantung Government was now taking a direct interest in information supplied by the South Manchuria Railway Company to foreign sources; he himself had to submit information which he proposed to give to Port Arthur, and he frequently experienced considerable delays. Only recently he had been asked by a certain consul in Manchuria to furnish some information. He had procured it and submitted it to the Kwantung Government, who had, up to date, failed to signify their approval or, indeed, to give any reply whatsoever.

5. It is curious that Mr. Kinney should have confirmed my own impressions and experience, which were also verified by Mr. Fukumoto, the Commissioner of Customs. The fact of the matter appears to be that, coincident with the Japanese idea that a stronger attitude should be taken in Manchuria, reactionary principles seem to have gained the ascendancy. In this, one seems to suspect the influence, usually somewhat sinister, of the army.

6. Indeed, the whole crux of the situation appears to lie here. The Shidehara policy was advertised as being pacific in its intention, and there has been ample evidence that this was in fact true. But the enemies of such a policy can claim with some justification that it has hardly been a success. Mr. Hayashi, the Japanese Consul-General in Mukden, has, according to Mr. Kinney, over 300 unsettled cases in his hands, while the main problems outstanding between Japan and China, particularly in Manchuria, seem further from a solution than ever. Japanese sentiment has been roused over incidents such as the Nakamura murder and the Tsingtao case, and, speaking from a Japanese point of view, there is no doubt a considerable feeling of insecurity amongst Japanese in Manchuria and China proper, coupled with bitter resentment at the manner in which Japan has been flouted and insulted by a nation which she regards as her inferior.

7. In these circumstances, it is perhaps not surprising if the advocates of a strong policy feel that their day has come. Dr. Zumoto, who is investigating Manchurian conditions prior to proceeding to the Pacific Conference at Hangchow (if it ever takes place), said to me with real regret in his voice some days ago, while discussing the Kellogg Pact, that, while we had made reservations as regards Egypt, Japan had, unfortunately, omitted to do so with regard to Manchuria. And I imagine that most, if not all, of the

Japanese in Manchuria to-day are tending towards the view that force is the only remedy.

8. There is doubtless a certain amount to be said on both sides, but the situation for Japan must actually be a difficult one. At the moment there are no incidents in Manchuria which call for special comment, and it is possible that the Chinese here, who are more under the shadow of Japan's power than in China proper and who would be more likely to feel the immediate effects of drastic action, feel that they have gone far enough. On the Japanese side there is little tendency on the part of the press to pour oil on the troubled waters, and the army has been somewhat outspoken in its statements, while its announcement some time ago that it intended in future to carry out military manœuvres in Chinese territory without even the formality, hitherto observed, of notifying the Chinese authorities through the local Japanese Consulates can scarcely be regarded as tactful or calculated to improve Sino-Japanese relations. The recent departure of General Yen Hsi-shan from the Choushuitzu military aerodrome by an aeroplane which cannot have been anything but Japanese, and which can scarcely have departed without the knowledge and tacit consent of the Japanese authorities, is another incident which lends colour to the Chinese claim that the Japanese deliberately foment discord in China.

9. Thus the situation stands at present, nor can even the most confirmed optimist regard the future outlook as very promising. The most that may be hoped for is that both sides will realise the seriousness of the situation and avoid further incidents to aggravate it. No drastic action, whether military or otherwise, can fail to have anything but an adverse effect on the already depressed state of trade, and since trade is today an urgent necessity, this thought may yet conceivably provide the required deterrent.

10. Copies of this despatch have been sent to His Majesty's Minister at Peking and to His Majesty's Consul-General at Mukden.

I have, &c.,

M. E. DENING

No. 504

Sir M. Lampson (Peking) to the Marquess of Reading

(Received September 19, 9.30 a.m.)

No. 361 Telegraphic [F 5027/1391/10]

PEKING, September 18, 1931

Following received from Mr. Aveling No. 99 of September 11.

Under instructions of Minister for Foreign Affairs Counsellor of Wai-chiaopu called yesterday evening to deliver memorandum summarizing recent evidence of Japanese aggressive designs in Manchuria and Mongolia.

Principal matters referred to are:—

(1) Recent action of Japanese Minister of War in publicly drawing attention to possibility of grave developments in Manchuria and Mongolia and in urging preparedness.

(2) Recent note (*sic* ? vote)¹ increasing Japanese forces in Manchuria on a permanent basis.

(3) Colonisation of Manchuria by Koreans, number of whom has almost reached one million in addition to Japanese . . .¹ and protection of these settlers presented grave problem to Manchurian authorities of which Wan-paoshan incident affords a sorry example.

(4) Massacre of Chinese in Korea July last. On August 11 a party of thirty-four Japanese soldiers was . . .¹ed into Chinese territory to undertake surveying work for construction of bridges. August 15 Japanese mined centre of one . . .¹ of Tumen river and on same day a party of some thirty Japanese reservists again crossed into Chinese territory and there practised machine gun fire.

(5) Waichiaopu informs me that memorandum has only been communicated to United States Minister as yet.

Copy of memorandum² follows by post.

Addressed to Foreign Office and Tokyo.

¹ The text is here uncertain.

² This memorandum is printed in *Foreign Relations of the United States 1931*, vol. iii, p. 5.

No. 505

Memorandum by Mr. Charles respecting Sino-Japanese Relations

[F 5032/1391/10]

FOREIGN OFFICE, September 19, 1931

Mr. Roberts in his memorandum of the 27th July last¹ has recounted the history of Sino-Japanese relations in Manchuria since the beginning of this year. From this it was evident that a deadlock had been reached in the negotiations at Mukden on the railway question, and that relations in general were not as cordial as they should be. The Chinese appeared to be anxious to postpone a settlement of outstanding difficulties until time had placed more trump cards in their hands, whereas the Japanese seemed to think that the present would be the most favourable time for them. If we are to believe the Japanese Foreign Minister, Baron Shidehara, and the Prime Minister, Baron Wakatsuki, the Japanese policy in Manchuria is one of whole-hearted co-operation with the Chinese in the economic development of the country. Baron Shidehara has missed no opportunity to stress this policy, and I think it is one he sincerely desires to pursue. He has, however, always made it quite clear that Japan has her special rights in Manchuria and Inner Mongolia, and that she does not intend to be done out of them.

¹ No. 497.

His Majesty's Chargé d'Affaires at Tokyo reported in March² that the conciliatory declarations which the Japanese Government received from the Chinese Minister in December 1930, with regard to relations with Japan, were not obtained without some previous plain-speaking on the part of Baron Shidehara to Mr. Wang. Mr. Snow was informed that it was made clear that if China resorted to the use of propaganda or threats of force against 'foreign' nationals, her relations with 'foreign' countries would deteriorate to an inconceivable extent. It is quite likely that Japan foresaw trouble in Manchuria over the railway question, or some other subject, and they were and are making every effort to discount in advance the possible effects of Chinese propaganda, and to enlist foreign sympathies by pretending to have been perfectly honest and above-board about everything.

It has been stated that the anti-Chinese riots in Korea were staged by Japan to hide her present policy, which is suspected of changing in a direction more hostile to China.³ The strengthening of the army in these parts has also increased suspicion in Korea and Manchuria. The Japanese at present have one division of troops in Manchuria. The men are relieved from Japan after certain periods of time. Recently the Japanese Government have decided to keep a division of men permanently in Manchuria at full strength. Further, the recent army reorganisation scheme, of which the transfer to Korea of an extra division from Japan formed part, was devised by General Ugaki, the newly-appointed Governor-General of Korea, during his term of office as Minister of War. He and the new Governor of the South Manchurian Railway, Count Uchida, are men of great importance, and we can justifiably suppose that they have been sent to their present positions because the Japanese consider that the times are critical. The recent Seiyukai campaign for a stronger policy towards China, and the agreement of parties in the House of Peers that a firmer attitude is necessary in Manchuria, is significant.

In commenting on the recent incidents between Chinese and Japanese subjects, which have occurred in Manchuria, it may be useful to recall that Japan is in Manchuria by virtue of the Treaty of Portsmouth,⁴ by the terms of which she took over from Russia the rights of that country in Manchuria. By notes exchanged in May 1915, between Japan and China, Japan obtained the extension of the leases as regards Port Arthur and the South Manchuria Railway from the year[s] 1923 and 1983, when they should normally have elapsed, to 1997 and 2002 respectively.⁵ Besides other advantages, Japanese subjects acquired the right to trade and lease land throughout South Manchuria under extraterritorial rights.⁶

The Wan-Pao-Shan incident, when Chinese peasants attacked a number

² See No. 374.

³ Mr. Royds reported in Seoul despatch No. 44 to Tokyo of July 15 (not printed) that this view was widely held by Chinese and Koreans.

⁴ This Russo-Japanese peace treaty of September 1905 is printed in *British and Foreign State Papers*, vol. 98, pp. 735 f. See also the Sino-Japanese treaty and supplementary agreement of Peking, December 1905, printed *ibid.*, vol. 98, pp. 740 f.

⁵ See *ibid.*, vol. 110, pp. 798-9.

⁶ By the treaty of May 25, 1915, printed *ibid.*, vol. 110, pp. 796-7.

of Korean farmers, became important because of its unfortunate repercussions in Korea. The consequent boycott of Japanese goods and anti-Japanese movements in China were remarkable. And while the massacres of Chinese by Koreans in Korea are attributable to the Wan-Pao-Shan affair, or rather to the highly coloured reports thereof, it is undoubtedly true that Koreans have for some time past harboured resentment against the Chinese, owing to the numerous reports of persecution of their fellows by Chinamen.

Koreans have resided in Manchuria for very many years. The number in Manchuria is difficult to estimate, and the total may be anywhere between 750,000 and 1 million. The majority live in the Chientao district, on the border of Korea, where they have been in far greater numbers than the Chinese. Indeed, this region has been claimed as Korean, and the question was settled in 1909 by the so-called Chientao Agreement,⁷ whereby Japan acknowledged Chinese sovereignty, and the River Tumen was established as the frontier.

In other parts of Manchuria, Koreans, being Japanese subjects, offer a good mark for persecution by the Chinese, as they are scattered about, and it is difficult for the Japanese to offer them protection. In addition to cancelling land leases without legal reason, the Chinese have recently insisted that the Koreans should pay a registration tax of 6 dollars, for which Chinese are not liable, thus breaking one of the terms of the 1915 treaty. It should be remembered that both Chinese and Koreans are extremely ignorant, and that the ignorance of legal rights and the prejudices of primitive minds are the cause of troubles which do not occur amongst more enlightened individuals, while the administration of Chinese law is so inadequate that the people often resort to means of their own rather than appeal to the vagaries of uncertain justice.

At present Japan does not recognise Chinese naturalisation of Koreans. If naturalisation should be recognised by Japan, the necessity for protecting the interests of Koreans thus naturalised would no longer be present, and so a considerable number of Sino-Japanese disputes would be eliminated. On the other hand, Japan could not exercise control over an element of lawless Koreans, political refugees, &c., if they were naturalised. It does not seem likely, however, that any large number of Koreans would voluntarily become Chinese subjects, since this would involve the loss of their right of protection by Japan.

All the recent incidents may be regarded as symptomatic. The older element amongst the Chinese in Manchuria (such as the Governor, Chang Tso-hsiang) is conservative, and while these men guard jealously the rights of China in Manchuria, they seldom go out of their way to cause complications. On the other hand, the younger element, which has become influential since the death of Chang Tso-lin, make as much trouble as they can, e.g., while statements are constantly made to the effect that foreign capital is welcome in Manchuria by the Chinese, regulations are from time to time promulgated which make the investment of foreign capital difficult: the

⁷ See *ibid.*, vol. 102, pp. 391-2.

sudden increase of export tax on coal mined by the Japanese at Fushun, in spite of the agreement of 1911;⁸ the Chinese have also protested against the use of oil shale at Fushun for the manufacture of fuel oil; constant attempts have been made to collect illegal taxes. The cumulative result has been that recently ill-feeling on the part of the Japanese population has become aroused. The flames have been fanned by the cold-blooded murder of a Japanese officer, Captain Nakamura, at the end of June.

Coming, as it does, after the Wan-Pao-Shan incident, the Chinese massacres in Korea, which the Japanese consider to be the direct result of continual anti-Korean measures in Manchuria, the impossibility of getting the Chinese down to business over the railway negotiations, and then the boycott of Japanese goods, it is not surprising that the public and the press are becoming restless. A recent memorandum received from the Japanese Embassy on the Nakamura case⁹ implies as much. Annoyance with China is plainly spreading in Japan, where people are convinced that Chinese encroachments of their rights in Manchuria will continue until effective checks are administered. In any case, a refusal to give satisfaction for the murder of an officer, who, besides a passport, carried permits from the local authorities to travel by the road he took, could not be overlooked by any Japanese Government. The army, always ready to take offence, is naturally incensed, and six airmen so far forgot their discipline as to drop thousands of leaflets in Japan, calling on the nation to awaken to the dangers which were menacing their rights in Manchuria.

Ill-feeling has been stimulated by associations such as the All-Manchurian Autonomy Federation, which has branches in various places in Manchuria, advocating strong measures in regard to the negotiations over the railways and the question of the abolition of extraterritoriality.

Recent ill-advised utterances of the Japanese Minister for War,¹⁰ General Minami, warning Japanese about the dangers in Manchuria and Mongolia, as well as of the dangers of the forthcoming Disarmament Conference, have no doubt had their influence on the army and given offence to the Chinese.

N. CHARLES

⁸ See John V. A. MacMurray, *op. cit.*, vol. i, pp. 792-3.

⁹ See enclosure in No. 501.

¹⁰ See No. 503.

CHAPTER IX

Japanese military action in Manchuria: the Chinese appeal to the League of Nations: the Council's resolution of September 30: attempts to settle the Sino-Japanese dispute by direct negotiation (September 19–October 14, 1931)

No. 506

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 19, 9.30 a.m.)

No. 365 Telegraphic [F 5014/1391/10]

PEKING, September 19, 1931, 10.20 a.m.

Donald¹ informs me that at 1 a.m. this morning Japanese military occupied Mukden.

There was some shelling and much rifle fire by them both on the city and the north camp at least eighty Chinese soldiers being killed in the latter. At 3 a.m. telephone and wireless communication was cut. It is supposed that Japanese troops must have run amuck for Japanese Consul declared inability to control situation.

Young Marshal who was dining with me last night to meet Commander-in-Chief knew nothing of what was impending, as soon as he heard he telegraphed orders that all Chinese troops were to lodge arms in the depot and refrain from all form of retaliation or provocation.

Repeated to Tokyo, Nanking and Mukden.

¹ Mr. W. H. Donald, an Australian citizen, was adviser to Marshal Chang Hsueh-liang.

No. 507

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 19, 12.5 p.m.)

No. 367 Telegraphic [F 5033/1391/10]

PEKING, September 19, 1931, 3.45 p.m.

My telegram No. 365.¹

On instructions of the Young Marshal, Dr. W. Koo² called this morning

¹ No. 506.

² Dr. Koo was at this time adviser to Marshal Chang Hsueh-liang. In October he became his representative on the Special Foreign Affairs Committee for dealing with the Manchurian question.

to discuss critical situation that has thus arisen. Since six this morning all communication has been cut and Japanese military had occupied railway station on Peking-Mukden Railway just south of Mukden station.

It soon became evident that what the Young Marshal and his advisers have in mind is some form of appeal either under Covenant of League of Nations or Nine-Power Washington Treaty (No. 11 Command Paper, minute [*sic*] No. 1 1922).³ And it emerged that what he was after was to ascertain if His Majesty's Government would be prepared to take initiative under either.

I was extremely guarded but stated personal view that in view of our special position of close and friendly relations with Japan it was excessively improbable that His Majesty's Government would be disposed to take any individual action. I added that in any case first thing His Majesty's Government would want to know was what had actually happened. So far all I had received was Donald's statement this morning and I was still awaiting verification and full report for which I had telegraphed to His Majesty's Consul-General at Mukden. But if all communication was cut this might take some time.

Dr. Koo repeated that the Young Marshal had issued strict instructions that Chinese troops should offer no resistance but communications being, he added, cut he was apprehensive as to what might happen if provocation went too far. I said that the Marshal's orders showed his wisdom.

Dr. Koo said that Japanese would doubtless put out full *ex parte* statement of facts. China would have to get ahead with hers. On which my comment was that such announcements gained much force if pointedly restrained and avoided [*sic*] anything savouring of overstatement.⁴

Before leaving Dr. Koo said he seriously hoped this incident would lead Nanking Government to prompt and satisfactory settlement of Thorburn case. I showed him your telegram No. 275⁵ (which I had already imparted to the Marshal last night) and observed that if Nanking Government did not now settle quickly with us they displayed stupidity. If just at this moment they did not come forward and show that such incidents *could* be settled by normal diplomatic discussion as opposed to what had happened at Mukden they were past praying for. He expressed the confident opinion that they would do so.⁶

Repeated to Mr. Aveling, Tokyo and General Officer Commanding, copy to Commander-in-Chief.

³ Cmd. 1627 of 1922, pp. 42-47.

⁴ In his telegram No. 370 of September 20, Sir M. Lampson reported that the United States Minister had had a discussion on the same lines with Dr. Koo: see *Foreign Relations of the United States 1931*, vol. iii, p. 12. Sir M. Lampson added: 'We both feel that these developments may well have marked reaction on the whole situation seeing that Mukden party leaders and troops are now cut off from their base supplies and to that extent immobilized.'

⁵ Not printed.

⁶ Sir M. Lampson was informed in Foreign Office telegram No. 284 of September 23 that his language was entirely approved.

No. 508

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 20, 4.50 p.m.)

No. 151 Telegraphic [F 5038/1391/10]

TOKYO, September 20, 1931, 6.57 p.m.

My immediately preceding telegram.¹

Though it is not yet possible to be sure of true story I am inclined to think that General Staff or possibly Commander-in-Chief in Manchuria seized excuse of attack on Railway by Chinese to occupy as many points as possible with troops on hand without authority of Japanese Government and indeed with conviction that military movements would be stopped by the latter as soon as they heard of them. General staff may well have . . .² now Nakamura case looks like being settled they must act quickly. Moment was the more opportune in that Japanese navy is concentrated off Sasebo for naval manœuvres which begin today in accordance with long-established programme.

United States Chargé d'Affaires who is well informed agrees with the above diagnosis.

Repeated to Peking.

¹ Not printed. Sir F. Lindley reported that Japanese forces had occupied Changchun and Newchwang. The Japanese press unanimously supported the action taken in Manchuria, but hoped that the trouble would be localized and the incident settled by diplomatic methods.

² This passage was later amended in accordance with a letter of November 14 from Tokyo Chancery to read: ' . . . have felt that now. . . '.

No. 509

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 20, 3.15 p.m.)

No. 152 Telegraphic [F 5031/1391/10]

TOKYO, September 20, 1931, 6.57 p.m.

In considering Chinese appeal¹ His Majesty's Government will no doubt give due weight both to fact that Chinese have followed most exasperating policy in Manchuria where they have straightforwardly [consistently]² attempted to undermine Japanese position which after all rests largely on treaty rights; and to the obvious probability that Japanese action in Manchuria will react favourably on British interests in Manchuria [China].²

Repeated to Peking.

¹ See No. 512.

² This correction is supplied from a Tokyo letter of November 14.

No. 510

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 20, 6.0 p.m.)

No. 374 Telegraphic [F 5076/1391/10]

PEKING, September 20, 1931, 8.20 p.m.

There is still no news from Consul-General at Mukden.

2. Young Marshal tells me that headquarters of General commanding troops in Dairen has been transferred to Mukden as also that of Civil Governor of Kwantung leased territory, two divisions have been moved into Chinese territory from Korea.

3. There have been reports of Japanese marines at Hulutao: also movement of troop trains westward from Mukden: but neither of these had been confirmed when I saw Young Marshal tonight.

4. He has telegraphed to Nanking suggesting that Chinese delegates at Geneva be instructed to bring matter up and press for special meeting of Council at once, even if this was not effective it would at least give publicity and bring Japanese out into the open. Later the matter might be taken up under Five [*sic* ? Nine] Power Treaty and Kellogg Pact both of which would bring America in.

5. Young Marshal was most anxious for my advice. I said that with all the will in the world I found it difficult to give any. No one at present knew the scope or the object of the Japanese action and all I could do meanwhile was to keep you informed of developments as I was doing. His Majesty's Government could not be expected to have any views until they knew more clearly what had actually happened.

6. I gather public indignation at the movement is rising but strictest orders have been given to avoid incidents and to afford police protection to Japanese nationals.

7. Japanese legation guard was tonight strengthened by eighty men from Shanhaikuan.

Repeated to Mission, Commander-in-Chief, Tokyo, General-Officer-Commanding for Hong Kong.

No. 511

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 22, 9.0 a.m.)

No. 375 Telegraphic [F 5118/1391/10]

PEKING, September 21, 1931, 6.30 p.m.

General Wu Te-chen¹ (see my telegram No. 231²) called September 20. He said Chinese were specially exercised as to whether Japanese proposals

¹ General Wu Tieh-cheng was Chairman of the Commission for Overseas Chinese Affairs, and Political Vice-Minister of the Interior.

² Not printed.

are in the nature of a temporary sanction or of permanent character. Impression was current that Japan aimed at three things:—

1. Imposition of certain conditions including not only settlement of outstanding cases in Manchuria but more for [*sic* ? far] reaching concessions in economic field throughout China;

2. Elimination of Young Marshal who was regarded as blocking Japanese aspirations in Manchuria.

3. Replacing him by someone more amenable to Japanese aims.

He could state as an absolute fact that recently two Japanese emissaries had visited ex-Emperor³ at Tientsin and sounded him as to establishing new Ching dynasty in Manchuria. Young Emperor had declined, being afraid, and there was now a possibility of their turning to some other Manchu prince e.g. Prince Kung living in Dairen.

General also alluded to Thornburn case and said that both Young Marshal and he had telegraphed independently on September 19 to Nanking emphasising importance of prompt settlement satisfactory to us. I showed him your telegram No. 275,⁴ and said I hoped Minister for Foreign Affairs would have the good sense to see necessity for prompt settlement repeating arguments used to Wellington Koo my telegram No. 367A.⁵

Little additional news has come in today but Japanese were busy broadcasting statement that their action was caused by alleged action of Chinese in trying to blow up railway bridge on South Manchurian Railway at 10 p.m. September 18. My only comment is that this seems palpably unlikely seeing that China had nothing to gain and everything to lose by a clash. But apart from that it is to say the least curious that military headquarters in Dairen and Civil Governor there should have been ready to move up to Mukden at 3 a.m. on September 19 i.e. within five hours of alleged incident—that Japanese men-of-war should have appeared at Newchwang early morning of September 19; that Japanese guard at Legation here was strengthened from Shanhaikwan (ten hours by train from Peking) by the evening and that troops were landed almost at once. Carefully worked plot and disguised scheme seems obvious.

Telegram [*sic* ? General] said that feeling throughout the country was tense but that strictest orders had been issued to avoid incidents or giving any form of pretext for further Japanese action. So far these orders had been scrupulously obeyed. Meanwhile he and others had telegraphed on September 19 to

³ The former Chinese Emperor Hsuan Tung, usually known by his personal name as Mr. Henry Pu Yi, was then living in the Japanese Concession at Tientsin. A report of October 6 from the Officer Commanding British troops at Tientsin stated: 'I have obtained following information as result of conversation with ex Emperor this morning. He has not been approached officially either by Japanese Government or by any Japanese General with regard to his going to Mukden as titular head of Manchuria. He knows however that many young Japanese military officers and many Chinese in Manchuria are anxious for him to proceed to Mukden. He gave impression offer by Japanese Government is not improbable. He is convinced young Marshal will never be allowed by Japanese to return to Mukden.'

⁴ Not printed.

⁵ No. 507.

Canton imploring leaders there to sink their internal difficulties and rally together at this time of national crisis. He was not without hope that this appeal might succeed.

The Marshal told me last night . . .⁶ received request from Japanese Government through Legation here *not* to urge Nanking Government to break off relations. He evidently regarded this as somewhat naive request in existing circumstances.

Repeated to Mr. Aveling, Tokyo, Hong Kong, General Officer Commanding, copy to Commander-in-Chief.⁷

⁶ The text is here uncertain.

⁷ This telegram was repeated to Geneva by the Foreign Office.

No. 512

Sir M. Lampson (Peking) to the Marquess of Reading

(Received September 21, 2.15 p.m.)

No. 379 Telegraphic [F 5042/1391/10]

PEKING, *September 21, 1931, 7.30 p.m.*

Following received from Mission No. 114 of September 20:—

Begins:—

Minister for Foreign Affairs requested me verbally this evening to transmit to you the following message:—

Begins:—

Chinese Government trusting in justice of its cause and willing to disclose all facts has made appeal¹ to signatories of League of Nations Covenant and Kellogg Peace Pact.

Chinese Government believe Japanese action premeditated and Minister for Foreign Affairs asks you to transmit to Foreign Office his confident hope that responsible Great Powers will not allow the open flouting of sacred international pacts.

¹ This appeal of September 21 is printed in *League of Nations Official Journal*, December 1931, pp. 2453-4.

No. 513

Record by Mr. MacKillop of a conversation with Dr. Chen

[F 5111/1391/10]

FOREIGN OFFICE, *September 21, 1931*

The attached *Aide-mémoire* was handed to me by the Chinese Chargé d'Affaires this afternoon: he said that it summarized the salient points of a

great number of telegrams which he had received from his Government with instructions to communicate them to His Majesty's Government.

Dr. Chen said that the Chinese Government regarded these events as the culminating point of a tendency that had been marked for some time. The murders of Chinese in Korea and the friction over the Nakamura affair had led up to them, and the action of the Japanese had been carefully prepared beforehand as was evident from the fact that their military action at different points in Manchuria had been so perfectly synchronized. He enquired whether His Majesty's Government had 'adopted any attitude' or formed any opinion with regard to these events, as reported in the Press here. I said that so far as I was aware His Majesty's Government had adopted no attitude about this case, and had formed no judgment—indeed the information so far available was probably insufficient to permit of any judgment being formed. In conclusion I thanked Dr. Chen for his *aide-mémoire* which I promised to submit to higher authority without loss of time.¹

D. MACKILLOP

¹ See further No. 552.

ANNEX TO NO. 513

Aide-Mémoire

Japanese Aggression in Manchuria

CHINESE LEGATION, LONDON, *September 21, 1931*

Telegrams from the Waichiao Pu, Nanking state that on the 18th of September Japanese troops suddenly attacked Chinese troops stationed at Pei-ta-Ying and disarmed them. By the early morning of the 19th they occupied Mukden. Similar action was taken at Changchun, Kuanchengtzu and other places where Chinese troops were stationed. Japanese Army in Korea has been ordered to mobilize. Although intelligence from Japanese official sources state that the Japanese Government desire to localise the area of conflict but [*sic*] whether they will be able to curb the activities of the military remains still a question.

The report that the Chinese troops destroyed a railway bridge of the South Manchurian Railway as a protest for Japanese action is entirely without foundation.

*Mr. Cadogan¹ (Geneva) to the Marquess of Reading
(Received September 22, 12.30 a.m.)*

Unnumbered L.N. Telegraphic: by telephone [F 5054/1391/10]

GENEVA, September 22, 1931

Following for Sir W. Selby:²

Chinese have appealed to Council under Article XI of Covenant to intervene in Mukden affair. Council meets at 10.30 tomorrow morning, Tuesday.³ Lord Cecil⁴ is of opinion that least Council can do in first place is to demand withdrawal of troops with a view to negotiations and in view of recent discussions here on model treaty it is difficult to see how Council could do less. Mr. Sato⁵ asked to see M. Massigli⁶ and myself tonight to discuss probable procedure tomorrow. M. Massigli said he had heard that British and French Military Attachés had proceeded from Peking to Mukden and suggested that Military Attachés should be sent also from Tokyo. Mr. Sato seemed to deprecate this and said that Japanese Government and people would not understand intervention of foreign observers. Knowing Lord Cecil's view I reminded Mr. Sato of recent discussions of model treaty and asked how his Government would receive suggestions of withdrawal of troops. It seemed almost certain that such a suggestion must be made. Mr. Sato said that Japanese delegate would have to refer to his Government and might not get reply for two or three days. He seemed particularly alarmed at idea of presence of Military Attachés but it later appeared that he had understood that intention was that we should intervene in negotiations for settlement. We explained that if proposal for withdrawal were accepted it would be almost necessary to have neutral observers on the spot so that each side might have assurance that other side were carrying out their part. We suggested that whole procedure might be put in one proposal for withdrawal and for despatch of observers to verify withdrawal. It might be made clear that proposal would be made with object of preparing ground for direct negotiation. If these [*sic*] failed or proved difficult either side might then invoke outside intervention. Mr. Sato seemed not to reject this idea but warned us that he could not get instructions for some days. Above is the line French Government have authorised M. Massigli to take. In absence of direct instructions I supported him. M. Massigli has since asked me to enquire whether His Majesty's Government would think it possible or desirable to suggest to

¹ Mr. Cadogan, Adviser on League of Nations Affairs to the Foreign Office, was a member of the British delegation at Geneva.

² Principal Private Secretary to Lord Reading.

³ September 22. The telegram was presumably drafted on September 21.

⁴ British Delegate to the Council of the League of Nations.

⁵ Mr. Sato, Japanese Ambassador at Brussels, was a member of the Japanese delegation at Geneva.

⁶ Chief of the League of Nations section at the French Ministry of Foreign Affairs and a member of the French delegation at Geneva.

United States Government that they should exercise moderating influence at Tokyo. He is making this suggestion to his Government. Do you approve generally above line of action and could you telephone me reply in course of tomorrow Tuesday morning as early as possible?⁷

⁷ This telegram was repeated by the Foreign Office to Paris, Washington, Tokyo, and Peking.

No. 515

The Marquess of Reading to Mr. Patteson (Geneva)

No. 113 Telegraphic: by telephone [F 5054/1391/10]

FOREIGN OFFICE, *September 22, 1931, 10.30 a.m.*

Following for Mr. Cadogan.

I approve line of action as regards withdrawal of troops and despatch of observers being put forward in one proposal with the object of preparing ground for direct negotiation.

As regards approaching the United States Government I am reluctant to suggest to them that they should exercise moderating influence at Tokyo but I propose to inform them of the action we are taking and leave it to them to decide whether or not to urge moderation on both sides.¹

¹ This telegram was repeated to Paris, Washington, Tokyo, and Peking. Mr. Osborne reported in Washington telegram No. 586 of September 23: 'Head of Far Eastern Division of State Department informed member of my staff this morning that United States Government had already twice urged moderation on both sides through their representatives here.'

No. 516

Sir F. Lindley (Tokyo) to the Marquess of Reading

(Received September 22, 9.30 a.m.)

No. 155 Telegraphic [F 5049/1391/10]

TOKYO, *September 22, 1931, 12.2 p.m.*

My immediately preceding telegram.¹

Cabinet came to no decision yesterday and will meet again today. Struggle is between Minister for Foreign Affairs and Minister of Finance on the one hand and Minister of War on the other.

Press reports that Commander-in-Chief, Korea, yesterday sent a mixed brigade across the border into Chientao without even asking the authority of General Staff much less of the Government. He alleged the urgent necessity

¹ Not printed. This telegram of September 21 reported in particular: 'Cabinet has been sitting since 10 a.m. and I understand from trustworthy source that question at issue is whether occupied points should be evacuated at once. Minister of War is hotly opposed and outcome must be considered doubtful. But it seems fairly certain that there will be no further advance unless there is a Cabinet crisis.'

of protecting Koreans and Japanese. Kirin was also occupied yesterday both measures being taken against what I believe to be orders of Cabinet. I will endeavour to see the Minister for Foreign Affairs today but Cabinet Council is likely to be long and lively. It may end in resignations though I expect these will be withheld for the present.

Repeated to Peking.

No. 517

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 22, 4.0 p.m.)

No. 158 Telegraphic [F 5069/1391/10]

My telegram 156.¹

TOKYO, September 22, 1931, 7.20 p.m.

Minister for Foreign Affairs has just informed me that total number of Japanese troops in Manchuria including those sent to [from]² Korea does not exceed treaty limit of fifteen per kilometre of railway.³ It was not true that Customs etc., at Newchwang or anywhere else had been taken over.

Only two places outside railway zone occupied by Japanese troops were Mukden City and Kirin and troops would be withdrawn from them as soon as tranquillity was assured. Latter had been occupied because large concentration of Chinese troops there threatened flank of railway. He was ready at any time to give Chinese Government assurance that Japanese Government has no territorial ambitions in Manchuria if such assurance were desired.

Newspapers having mentioned danger to Japanese subjects at Harbin I questioned Minister for Foreign Affairs who stated that this would be evacuated in the event of danger being serious. In no case would Japanese troops be sent there or, if I understood right, to other places beyond Northern terminus of South Manchurian Railway.

Questioned as to Russian attitude Minister for Foreign Affairs stated that no uneasiness was felt at Moscow. On the contrary M. Karakhan⁴ had in conversation with Japanese Ambassador treated question jocularly and compared it to Russo-Chinese quarrel of 1929.

Minister for Foreign Affairs concluded by saying that T. V. Soong had proposed mixed Sino-Japanese commission composed of eminent men should meet in order to settle questions in dispute in Manchuria. Japanese Government had replied that they would accept such commission if its just⁵ duty was to seek agreement on certain questions of principle such as position of Koreans in Manchuria, railway construction and other matters connected with Japanese position in Manchuria. Until principles regarding these were

¹ Not printed.

² This correction is supplied from a Tokyo letter of November 14.

³ See the Additional Articles to the Treaty of Portsmouth and the protocol of October 30, 1905, printed by John V. A. MacMurray, op. cit., vol. i, pp. 525-8.

⁴ Soviet Vice-Commissar for Foreign Affairs.

⁵ This word was queried in the Foreign Office.

settled it was useless for a commission to attempt to solve numerous minor disputes which had baffled settlement for so long.

If Chinese Government agree to examine questions of principle first of all Japanese Government would welcome commission and hoped that both Soong and Young Marshal would serve on it.

Repeated to Peking.

No. 518

Sir M. Lampson (Peking) to the Marquess of Reading

(Received September 22, 9.0 p.m.)

No. 382 Telegraphic [F 5093/1391/10]

My telegram No. 375.²

PEKING, September 22, 1931¹

I saw the Marshal privately in the evening of September 21. He had little fresh news beyond unconfirmed report of Japanese military action at Kirin and Hsinminfu and of Japanese aeroplane operating towards Taotaofu. He had no confirmation of press reports of Japanese troops having been landed at Tsingtao.

Neither the Marshal nor so far as I am aware Nanking Government have so far received any communication from Japanese Government. Japanese Secretary in charge of Legation had called on September 20 but instead of delivering message from his Government had merely asked that protection be afforded to Japanese residents in Peking.

I enquired about Japanese allegation that trouble had been precipitated by Chinese soldiers destroying South Manchurian Railway line north of Mukden. The Marshal believes report to be entirely untrue but is awaiting arrival of Chief of Staff at Mukden who had escaped and was on his way to Peking by train and who is expected to have full information as to what really happened. He expressed his determination to give out nothing but facts and let them speak for themselves.

He said such information as he had received appeared to indicate that Japanese were preparing for a semi-permanent occupation of Mukden. His own residence was reported to have been entered and his papers removed.

In reply to my enquiry the Marshal said he hoped that Japanese action would have the effect of unifying the country in self-defence. He had already received telegrams from Shansi Generals (not including Yen) pledging loyalty. He had also heard from Canton and was hopeful that difference between Southern leaders and Nanking would now be patched up.

Peking remains quiet and it is understood that authorities have warned educational institutions to refrain from agitation. There are undercurrents of nervousness amongst upper classes fearful of war and amongst lower classes rumours that Japanese action is intended to strike at Manchurian control of North China and will be followed by military uprisings against Mukden rule.

¹ The time of despatch is not recorded.

² No. 511.

A Rengo³ telegram dated Shanghai September 18 gives substance of statement reported to have been issued by Japanese Minister on September 17 (i.e., the day before incident) on the subject of Chino-Japanese relations emphasizing the seriousness of Nakamura case but expressing belief that its solution would not be difficult and adding that report that Japan was mobilising troops was entirely unfounded. This appears to confirm impression that Japanese military authorities took the bit between their teeth.

I took the opportunity of my conversation with the Marshal to mention once more Thorburn case. He said matter had been mishandled at Nanking and that he was doing his best to get it cleared up.

Repeated to Mr. Aveling, Commander-in-Chief, General Officer Commanding, Hong Kong and Tokyo.

³ Japanese News Agency.

No. 519

Mr. Patteson (Geneva) to the Marquess of Reading
(Received September 23, 9.0 a.m.)

No. 109 L.N. Telegraphic [F 5071/1391/10]

GENEVA, September 22, 1931, 11.0 p.m.

After public session of Council¹ of which you will have seen press reports President summoned British, French, German and Italian delegates into consultation.

Telegrams were addressed to Chinese and Japanese Governments in accordance with Council resolution.²

It was then decided to ask Chinese and Japanese delegates to ascertain urgently from their Governments extent of occupied territory, what suggestions they had to make as to evacuation and whether they would see any objection to despatch of competent observers, military or civil, to Manchuria, to report to Council on the situation, observers being drawn from countries other than Japan or China but friendly to both.

Chinese delegate had already made statement to Council on these points.³

Japanese delegate now undertook to consult his Government on them.

Repeated to Tokyo.

¹ See *League of Nations Official Journal*, December 1931, pp. 2265-74, for the Council's sessions on September 22.

² The telegrams to the Chinese and Japanese Governments are printed *ibid.*, p. 2454.

³ In this connexion Mr. Ingram reported in his telegram No. 115 of September 23 to Sir M. Lampson (repeated to the Foreign Office as Peking telegram No. 404): 'Dr. Wang asked me to convey to you his appreciation and gratitude for the language used by Lord Cecil at Council's Session. He added that Chinese Government were satisfied with the League's decision in giving effect to which they would collaborate loyally. They had nothing to conceal. He hoped that the Japanese would equally play the game.'

No. 520

Mr. Patteson (Geneva) to the Marquess of Reading

(Received September 23, 9.20 a.m.)

No. 115 L.N. Telegraphic: by telephone [F 5094/1391/10]

GENEVA, September 23, 1931

Following from Lord Cecil.

French Government are sending following telegram to their Ambassador in Tokyo:

'The Council of the League of Nations yesterday addressed to Chinese and Japanese Governments a telegram'¹ (text of which you have doubtless seen in the press containing urgent appeal to both Governments to abstain from acts likely to aggravate situation and to seek means whereby both sides may proceed to withdrawal of troops). 'The news received here, which is confirmed by information from Chinese sources, makes it appear improbable that any improvement has taken place in the situation and Japanese delegate has been unable up to now to give any assurances in regard to intentions of his Government. Please concert with your British, German and Italian colleagues with a view to separate representations drawing Baron Shidehara's attention to the gravity of complications which might ensue from a prolongation of the present situation. Without entering on any discussion of the responsibility incurred in regard to recent events, you should insist on obligations devolving on all members of League of Nations to respect their international undertakings and on their duty to comply with recommendations of Council, in particular when there is any question of taking measures designed to prevent the aggravation of a conflict. You should emphasise that in case of a state which, like Japan, is a prominent member of the Council and has constantly played a most active part in work of League of Nations, these obligations have a still more binding force and that the moral responsibility is all the greater.

'Japanese delegate here has been requested to enquire of his Government whether they would accept the despatch to the spot of observers appointed by the Council. No answer has yet been received.'

German and Italian delegates have agreed to send similar message to their Ambassadors in Tokyo. I urge that His Majesty's Ambassador be instructed immediately in similar sense.

¹ See No. 519, note 2.

No. 521

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 23, 9.30 a.m.)

No. 159 *Telegraphic* [F 5080/1391/10]

TOKYO, September 23, 1931, 12.10 p.m.

Sir M. Lampson's telegram No. 375.¹

Although it is quite possible that attack on South Manchurian Railway was invented, or published [arranged]² by, Japanese military authorities, I think it improbable that General Staff . . .³ Japanese Government on all the designs such as are suspected at Peking. Everything here points to Japanese action in Manchuria being intended solely to force Chinese Government to settle many long-standing disputes in that province and to put an end to their alleged anti-Japanese policy there.

Repeated to Peking.

¹ No. 511.

² This correction is supplied from a Tokyo letter of November 14.

³ The text was here uncertain. This passage was later amended in accordance with the Tokyo letter of November 14 to read: ' . . . General Staff or Japanese Government have designs . . . '.

No. 522

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 23, 2.30 p.m.)

No. 394 *Telegraphic* [F 5133/1391/10]

PEKING, September 23, 1931, 4.55 p.m.

Manchuria.

The latest developments are:—

1. There is much stir among Young Marshal's entourage at repercussion at (? Geneva):¹ and Marshal telegraphed September 22 to his representative on Chinese delegation there to ascertain any reaction there may be. Donald believes there is something afoot and has sent a telegram to 'The Times' on it which he showed to me after despatch. I pointed out that it was all highly speculative and suggested caution and not jumping prematurely to conclusions.

2. Chiang who is back in Nanking has pressed the Marshal to fly down for urgent conference there. The Marshal has not gone but sent two representatives this morning who are due back tomorrow.

3. United States Minister has telegraphed to State Department that if Kellogg Pact etc. means anything present action of Japanese must be within

¹ The text is here uncertain.

scope of Article 2 if not of Article 3: and expressing personal view that unless something is done thereupon by signatory Powers they will stand arraigned before the bar of public opinion as adopting one standard for Eastern affairs and another for Western—a differentiation from which we may all eventually stand to suffer seriously. I said that whilst agreeing generally with him and regarding Japanese action as an instance of brutal application of ruthless force against a weaker neighbour, I had hitherto refrained from expressing any views to you which might savour of taking sides. I had felt it wise to report *facts* as I learnt them and His Majesty's Government could draw their own conclusions. Meanwhile Military Attaché had gone to Mukden last night and he had instructions to report what he could ascertain as a result of independent enquiry.

Repeated as before.²

² This telegram was repeated to Geneva by the Foreign Office on September 25.

No. 523

The Marquess of Reading to Sir F. Lindley (Tokyo)

No. 112 Telegraphic [F 5094/1391/10]

FOREIGN OFFICE, *September 24, 1931, 12.15 a.m.*

Geneva telegram No. 115.¹

You should take action similar to that of your French, German and Italian colleagues.

¹ No. 520.

No. 524

Mr. Osborne (Washington) to the Marquess of Reading¹

(Received September 25, 9.0 a.m.)

No. 590 Telegraphic [F 5132/1391/10]

WASHINGTON, *September 24, 1931, 1.25 p.m.*

My telegram No. 586.²

Mr. Castle sent for me this morning to explain United States attitude in Manchurian affair which they want you to understand.

They are determined to back the League's action whole-heartedly. But they are very conscious of one factor which they apprehend may not be fully appreciated at Geneva namely conflict between military and civil elements in Japan. If action taken at Geneva is such as to enable military party to arouse national feeling and enlist national support the task of pacification of civil party represented by the Prime Minister and the Minister for Foreign

¹ This telegram was repeated to Geneva by the Foreign Office on September 25.

² See No. 515, note 1.

Affairs will be greatly complicated. United States Government feel strongly that full account should be taken of this consideration and generally of oriental mentality. But subject to this precaution they will co-operate in every possible way.

You are doubtless aware of their recent action.³

³ The reference is presumably to the note from Mr. Stimson to M. Lerroux, President of the Council of the League of Nations, printed in *Foreign Relations of the United States 1931*, vol. iii, p. 48.

No. 525

Mr. Strang (Moscow) to the Marquess of Reading
(Received September 24, 6.30 p.m.)

No. 165 Telegraphic [F 5122/1391/10]

MOSCOW, September 24, 1931, 6.0 p.m.

My telegram No. 158.¹

M. Litvinov² defined Soviet attitude to me today as follows: Soviet Government consider grave situation has arisen.

They disapprove of Japanese action as being manifest imperialism and clear breach of Kellogg Pact.

As border state whose interests may be involved they are closely watching developments.

They will do nothing to aggravate the situation and desire it to be satisfactorily liquidated as soon as possible.

Japanese step was taken after long preparation and alleged destruction of railway by Chinese was mere pretext.

He denied foreign press rumours to the effect that Chinese had made special appeal to Russia and that latter had informed Japan that she could no longer stand aloof.

He had, of course, asked Japanese what their intentions were.

He was not the guardian of Kellogg Pact and it was not for him but rather for interested Great Powers to raise the question of breach.³

¹ Not printed.

² Soviet Commissar for Foreign Affairs.

³ Mr. Strang sent a fuller report of this interview in Moscow despatch No. 504 of September 28 (not printed). He added that he had the same day had a conversation with Mr. Mo Te-hui, head of a Chinese delegation in Moscow, and stated in particular: 'I gathered that he suspected some kind of understanding between the Soviet and Japanese Governments as to the extent of the Japanese occupation, and that so long as the Japanese did not go beyond certain limits the Soviet Government would not make any formal protest or otherwise intervene. I find that this view is shared by some of my colleagues. Such an understanding is not impossible, but I have no evidence that it exists. Mr. Mo said that he believed that the Russian forces on the Manchurian frontier had been reinforced. He did not think the Russians would intervene, but the tightening of the Japanese grip upon South Manchuria was a potential danger to them, particularly if the Japanese had acted with the knowledge and sympathy of the other Great Powers, and if they did intervene at all it would not be against China.'

No. 526

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 24, 2.30 p.m.)

No. 163 Telegraphic [F 5127/1391/10]

TOKYO, September 24, 1931, 6.50 p.m.

Your telegram No. 112.¹

Neither my French nor German colleague had received any instructions this afternoon. Italian Ambassador had received instructions to act but awaited telegram to say how.

In these circumstances I saw Vice-Minister for Foreign Affairs and confined myself to informing him that I knew His Majesty's Government was most anxious that Japanese Government should fall in with wishes of Council of League of Nations. I expected that . . . [I]² should make official representations later with some of my colleagues who had not yet received instructions.

Vice-Minister for Foreign Affairs replied that Japanese Government were most anxious to show respect for League and would publish declaration³ this evening setting forth their point of view and correcting a number of misrepresentations and misconceptions. Cabinet was now sitting and putting the finishing touches to this declaration which would lead to a much clearer understanding of the whole question in Europe and America. When this declaration had been published, Japanese Government would hasten to give official reply to Council of the League.⁴

Opinion of my colleagues which I share is that what may be called the active phase of the crisis is over unless there is unforeseen incident such as massacre of Japanese civilians in China.

My United States colleague had received no communication from Washington since the crisis began, when I saw him at one o'clock today.

Repeated to Peking.⁵

¹ No. 523.

² The text was here uncertain. This word is supplied from a Tokyo letter of November 14.

³ See No. 528, note 3.

⁴ This reply, dated September 24, is printed in *League of Nations Official Journal*, December 1931, p. 2455.

⁵ This telegram was repeated to Geneva by the Foreign Office on September 25.

No. 527

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 24, 4.0 p.m.)

No. 164 Telegraphic [F 5128/1391/10]

TOKYO, September 24, 1931, 7.30 p.m.

My French colleague who is far from pro-Japanese holds that Chinese have brought this crisis on themselves by their continued evasion in settling

legitimate Japanese grievances and above all by their intense anti-Japanese propaganda in Manchuria which threatened the whole Japanese position. He has told his Government that Chinese deserve all they have got and that drastic Japanese action is to the advantage of French and of all other foreign interests in China.

Repeated to Peking.¹

¹ This telegram was repeated to Geneva by the Foreign Office on September 25.

No. 528

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 25, 9.0 a.m.)

No. 160 Telegraphic [F 5131/1391/10]

TOKYO, September 25, 1931, 1.8 p.m.

My telegram No. 163.¹

My French colleague and my German colleague are still without instructions but French Minister is to see Minister for Foreign Affairs this afternoon and if he has instructions by then he will carry them out and leave *aide-mémoire*. If he has no instructions he will speak to Minister for Foreign Affairs in same sense as I spoke yesterday to Vice-Minister for Foreign Affairs.

I will (? see)² Minister for Foreign Affairs myself this afternoon if possible and act in the same way as my French colleague.

United States Chargé d'Affaires has now been informed by his Government that they are in full agreement with the attitude of League of Nations embodied in paragraphs 1 and 2 of their resolution.

Government declaration was published this morning and no doubt telegraphed to Geneva and Europe generally.

It gives account from Japanese point of view of causes and sequence of events in Manchuria and contains no reference to intervention by League of Nations.³

Repeated to Peking.⁴

¹ No. 526.

² The text is here uncertain. This word was suggested in the Foreign Office.

³ The Japanese Government's declaration of September 24 is printed in *League of Nations Official Journal*, December 1931, pp. 2280-1. A copy was communicated to the Foreign Office by Mr. Matsudaira on September 25.

⁴ This telegram was repeated to Geneva by the Foreign Office on September 25.

No. 529

The Marquess of Reading to Mr. Patteson (Geneva)

No. 139 Telegraphic: by telephone [F 5131/1391/10]

FOREIGN OFFICE, September 25, 1931, 4.0 p.m.

Following for Lord Cecil.

Tokyo telegram No. 160¹ repeated to you.

French Ambassador has evidently not yet received the instructions described in your telegram No. 115.²

I should be glad if you would obtain an explanation.

¹ No. 528.

² No. 520.

No. 530

Sir F. Lindley (Tokyo) to the Marquess of Reading

(Received September 25, 3.0 p.m.)

No. 165 Telegraphic [F 5147/1391/10]

TOKYO, September 25, 1931, 5.30 p.m.

My telegram No. 160.¹

Having learnt that United States Chargé d'Affaires had just received instructions to present a note to Japanese Government² I spoke to Minister for Foreign Affairs officially this afternoon and left *aide-mémoire*³ although my colleagues were still without instructions. I did not like exposing myself in this way but knowing importance attached by His Majesty's Government to compliance with resolutions of League of Nations I thought it the better of the two evils.

Minister for Foreign Affairs was certainly impressed with the gravity of the question. He pointed out that Japanese Government had already complied with the first request of League of Nations and would withdraw troops

¹ No. 528.

² See *Foreign Relations of the United States: Japan 1931-1941*, vol. i, p. 9; see also *ibid.*, p. 13 for the Japanese reply of September 27. Sir F. Lindley reported in his telegram No. 173 of September 29 (not printed) that 'United States Chargé d'Affaires presumes that reply is satisfactory to United States Government as he has had no comments from Washington'.

³ Sir F. Lindley transmitted in his despatch No. 481 of October 1 (not printed) a copy of this *aide-mémoire*, which read: 'The Council of the League of Nations are most seriously impressed by the danger of grave complications ensuing if the present situation in Manchuria is prolonged. Without wishing to enter into the question of responsibility in regard to recent events, all members of the League of Nations are under a sacred obligation to respect their international undertakings and to comply with the recommendations of the Council particularly when there is any question of taking steps designed to prevent aggravation of a conflict.'

'Japan is a prominent member of the Council and has constantly played a most active part in the work of the League of Nations. Her obligations are, therefore, of specially binding force and her moral responsibility is all the greater.'

in compliance with the second as soon as appropriate measures could be agreed on with local Chinese authorities to protect adequately Japanese lives and property as predicated in resolution. He had that moment received telegram to the effect that half of the troops had already been withdrawn from Kirin. The rest would follow as soon as danger of flank attack on Southern Manchurian Railway had disappeared.

Repeated to Peking.

No. 531

Sir F. Lindley (Tokyo) to the Marquess of Reading

(Received September 25, 6.0 p.m.)

No. 166 Telegraphic [F 5146/1391/10]

TOKYO, September 25, 1931, 6.20 p.m.

My immediately preceding telegram.¹

Minister for Foreign Affairs then mentioned proposal to send observers delegated by League of Nations to Manchuria.

He said Japanese Government considered proposal would lead to friction with military authorities on the spot and to a public outburst in Japan.

At reception of journalists this morning they had all asked him with indignation which Government had proposed observers.

If he had told them it was His Majesty's Government there would have been enormous head lines attacking Great Britain in every paper.

I replied I would report what he had said. My impression was that proposal had been made because it formed part of some model treaty under discussion at Geneva without any reference to Britain [Far East]², and I find I was wrong in this on rereading your telegram No. 671 to Washington.³

I must warn you that although Japanese Government were certainly divided at the beginning of the crisis, they have now been forced by events to form a solid front and any action they may take to defend their interests in Manchuria will receive unanimous public support. And it must never be forgotten that those interests were [are]² believed by all Japanese to be vital to the life of the nation.

Finally lively Russian⁴ action in 1929 when outside interference was successfully resisted is in everybody's mind. The best opinion here is to the effect that Japanese Government while showing deference to League of Nations and complying with requests which they believe do not affect their vital interests will not accept conditions which in their opinion will prejudice a settlement with China of their difficulties in Manchuria. They are deter-

¹ No. 530.

² This correction was made in accordance with a Tokyo letter of November 14.

³ This telegram was a repetition to Washington of No. 514. See No. 514, note 7.

⁴ This passage was later amended (cf. note 2 above) to read: 'Finally example of Russian . . . '.

mined as far as we can judge to settle these with Chinese alone and not to allow themselves to be put off with shadows after running enormous risks they have run by their action in Manchuria.

In these circumstances His Majesty's Government will realise that League of Nations runs a grave risk of meeting with a most damaging rebuff unless extreme prudence is shown.

Repeated to Peking.⁵

⁵ This telegram was repeated to Geneva by the Foreign Office on September 25.

No. 532

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 26, 6.0 p.m.)

No. 410 Telegraphic [F 5159/1391/10]

PEKING¹

Following received from Mission No. 118 of September 24.

My immediately preceding telegram.²

T. V. Soong told me last night that Chinese Government were apprehensive lest Japanese should contemplate some *coup* at Chefoo, Tsingtao or even Nanking and Shanghai. He maintained that if a single aggressive action were taken at either of the three first named places or any encroachment made by Japanese outside the International Settlement at Shanghai, the Chinese would resist with whatever local forces they could dispose of.

I hope tomorrow to see Admiral Chen, who is now absent in Shanghai, and ascertain whether any orders in the above sense have been actually issued.

Assistant Military Attaché's unofficial enquiries at Ministry of War have elicited no confirmation of issue of orders but his informant there had little doubt that they might have been issued by the President himself.

Repeated to Geneva.

¹ The date and time of despatch of this telegram, which was drafted on September 25, are not recorded.

² See No. 534.

No. 533

Mr. Strang (Moscow) to the Marquess of Reading
(Received September 26, 8.0 p.m.)

No. 168 Telegraphic [F 5167/1391/10]

MOSCOW, September 26, 1931, 6.10 p.m.

My immediately preceding telegram.¹

I have the impression that Soviet Government whatever they say in public can now regard situation with less apprehension and even with some satisfac-

¹ Not printed.

tion. Chinese from whom they have themselves suffered are being taught another lesson and Japanese who might have been a danger are apparently being constrained by world opinion to act with a certain moderation. Soviet Government temporarily (must be glad to)² have no call to intervene at time when paradoxically enough they have peculiar interest in avoiding international complications and in preservation of (stable)³ conditions abroad. Their economic plans are threatened by possible dislocation of foreign trade and for internal reasons serious military operations might be a hazardous undertaking.

² This emendation was made in the Foreign Office.

³ The text received was here uncertain. This word was inserted later.

No. 534

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 27, 4.10 p.m.)

No. 416 Telegraphic [F 5168/1391/10]

PEKING, September 27, 1931, 4.40 p.m.

Following received from Mr. Ingram No. 117 September 24:—

Begins:—

Dr. T. V. Soong asked me to come and see him after dinner last night.

He expressed fears that Japan was trying to create the impression that Manchurian crisis could be solved by Sino-Japanese negotiations from which owing to Chinese inherent weakness Japan might expect to derive greater advantage than from the League action. In support of these apprehensions he stated that Mr. Shigemitsu had on the morning of Saturday September 19 suggested to him that the clash about which only the wildest rumours were then current could be settled by local Sino-Japanese Commission. Dr. Soong in the absence of full information had not then demurred at the idea. At noon on Tuesday September 22 Japanese Consul-General at Nanking had again approached him with the same proposition on behalf of the Japanese Government which Dr. Soong then turned down on the ground that Japanese action had proved to be far more serious and extensive than a mere local clash and that the whole question was now in the hands of League of Nations. These are facts upon which Mr. Yoshizawa's reported statement, that the same afternoon [morning] at Council's session, a highly¹ placed member of the Chinese Government had proposed . . .² was presumably based.

¹ This passage appears to be confused. It should probably read: '... statement, the same morning at Council's session, that a highly . . .'. See *League of Nations Official Journal*, December 1931, p. 2268. Mr. Yoshizawa was Japanese Delegate to the Council of the League of Nations.

² The text is here uncertain, but should probably read: '... proposed direct negotiations . . .'.

Dr. Soong spoke of rumours that either a Manchu prince (see your telegram No. 375³) or someone like General Chang Tsung-chang⁴ would be set up by the Japanese at Mukden. He attached a certain importance to these rumours as indicating the desire of Japanese to point to some Chinese authority with whom they could plead that they were actually negotiating over the Manchurian crisis thereby lending colour to their contention that they were 'localizing' it.

³ No. 511.

⁴ Military Governor of Shantung 1924-8: General Chang took refuge in Japan in 1929.

No. 535

The Marquess of Reading to Mr. Osborne (Washington)

No. 686 Telegraphic [F 5132/1391/10]

FOREIGN OFFICE, *September 28, 1931, 3.0 p.m.*

Your telegram No. 590.¹

Please thank Mr. Castle for this expression of his views and add that they closely coincide with our own.

¹ No. 524.

No. 536

Sir F. Lindley (Tokyo) to the Marquess of Reading

(Received September 28, 3.40 p.m.)

No. 172 Telegraphic [F 5208/1391/10]

TOKYO, *September 28, 1931, 3.40 p.m.*

My immediately preceding telegram.¹

Although I do not believe Japanese Government will countenance any fantastic scheme such as new dynasty in Manchuria I cannot help feeling that it might well encourage change of government² and even an independent movement.

Press has been significantly full of news the last day or two emphasizing discontent of Chinese in Manchuria. But I think that Japanese will be extremely careful not to appear.

As seen from here Chinese are running great risk in refusing to negotiate. Repeated to Peking.

¹ No. 537. These telegrams were despatched out of order.

² In this connexion Sir M. Lampson had reported in his telegram No. 414 of September 26 that he had been informed that the Japanese Consul-General at Canton had stated 'that one of the conditions of evacuating occupied places would be retirement of Young Marshal'.

No. 537

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 28, 4.0 p.m.)

No. 171 Telegraphic [F 5207/1391/10]

TOKYO, September 28, 1931, 7.45 p.m.

Mr. Ingram's telegram No. 117.¹

Japanese are, in my opinion, determined to deal with Chinese alone—see my telegram No. 166.²

I asked Minister for Foreign Affairs this afternoon whether he could tell me anything of independent Government for Manchuria and Mongolia announced in evening newspapers. His Excellency replied that there might be a movement on foot to form such a government since many in the three eastern provinces were discontented with régime there. He did not believe movement would succeed nor were Japanese Government interested in it.

Strict orders had been given by military authorities that no Japanese officers [*sic*] or man was to meddle in local politics and he had himself instructed Japanese Ministry of Foreign Affairs [Consular Officers]³ to deport any civilian who did so. I remarked that Chinese would certainly think movement was engineered by Japan.

In reply to further question His Excellency said that Japanese Government would be in a very difficult position if independent government were set up and Nanking declared war on it. But he did not believe such a thing would happen.

Repeated to Peking.

¹ See No. 534.

² No. 531.

³ This emendation was made in accordance with a Tokyo letter of November 14.

No. 538

The Marquess of Reading to Sir F. Lindley (Tokyo)

No. 115 Telegraphic [F 5146/1391/10]

FOREIGN OFFICE, September 29, 1931, 2.15 p.m.

Your telegram No. 165 A [166].¹

We have been anxious throughout to be fair to both parties to this regrettable dispute and, in the interests of the friendly relations with both countries to which we attach great importance, to avoid any action which might be regarded by either Japanese or Chinese Government as evidence that we had passed judgment on them. In particular we did not desire to initiate representations to either, though we should of course not refuse to associate ourselves with such representations if suggested by others.

¹ No. 531.

You will have observed from our telegram No. 107² that despatch of observers was originally proposed by the French, and from our telegrams Nos. 111³ and 112⁴ that representations by foreign Ambassadors in Tokyo were contemplated by British, German and Italian Delegates at Geneva, and were approved by His Majesty's Government for their part, on the assumption that the French Government were actually sending a telegram in the sense indicated to your French colleague. So far as I am aware, however, the latter has not yet made any representations on the instructions which the French Government were said on September 23 to be sending him. It is difficult to understand why he has not already received instructions to do so, and it seems possible that he will now be given discretion in view of subsequent easing of the situation.

Please ascertain, therefore, and report by telegraph exactly what representations, if any, your French colleague has made. You may in the meanwhile give the Japanese Minister for Foreign Affairs, if you think fit, a verbal explanation of the important fact that His Majesty's Government, in authorizing you to act in the sense you have reported, did so on the understanding that other friendly Governments were acting similarly and on the initiative of one of them; and make it clear that the proposal to despatch observers was not originated by His Majesty's Government or any British representative or official.

Please repeat to Peking No. 289.

Repeated to Paris (by bag) No. 262, and Geneva No. 147.

² No. 514 was repeated to Tokyo as Foreign Office telegram No. 107.

³ No. 520 was repeated to Tokyo as Foreign Office telegram No. 111.

⁴ No. 523.

No. 539

Mr. Patteson (Geneva) to the Marquess of Reading
(Received September 29, 4.15 p.m.)

No. 121 L.N. Telegraphic: by telephone [F 5251/1391/10]

GENEVA, September 29, 1931

Your telegram No. 151.¹

Following from Lord Cecil.

At two successive meetings of the Council Japanese delegate has been able to report² progressive withdrawal of Japanese troops from Chinese territory, which is not denied by Chinese delegate.

At later of these meetings, held yesterday, Japanese delegate declared that

¹ Not printed. This telegram of the same day enquired what was the precise position in regard to Manchuria.

² On September 25 and September 28: see *League of Nations Official Journal*, December 1931, pp. 2281 and 2289.

his Government 'has no territorial designs on Manchuria, and that it maintains its determination, of which practical proof has been given during the last few days, to withdraw its forces within the railway zone in so far as the safety of its nationals and their property is effectively provided for. It is my earnest hope that it will be able to carry out this intention to the full within the shortest possible time.' He stated that all Japanese troops were now withdrawn except from Mukden, Kirin and a small number in two other towns.

In the earlier proceedings the Chinese delegate had pressed for the appointment of a neutral commission to watch the Japanese withdrawal. At yesterday's sitting Chinese delegate modified this in the sense that he now proposed that 'the Council should help the parties to reach an agreement as to arrangements on the spot which would make it possible to fix an early date for the completion of the withdrawal'. The Japanese delegate interpreted this suggestion to mean that the Chinese and Japanese would endeavour to come to an agreement without help from outsiders. If that interpretation was correct, he would not fail to transmit the suggestion to his Government. He had also stated that many neutrals were now on the spot including British Military Attaché, and that they had full facilities for seeing what was happening.

The Council will consider the matter again tomorrow, and will hope to have a further report from the Japanese delegate on the progress of the withdrawal.

For your information, if withdrawal is not complete, it is probable that Council will be unable to declare incident closed. It will probably adjourn nominally for a fortnight or so, in the hope that developments in the meanwhile will render further meeting unnecessary.

No. 540

Sir F. Lindley (Tokyo) to the Marquess of Reading

(Received September 29, 2.45 p.m.)

No. 174 Telegraphic [F 5247/1391/10]

TOKYO, September 29, 1931, 6.58 p.m.

My telegram No. 165.¹

Minister for Foreign Affairs informed me today that orders had been sent to High Command in Manchuria that all Japanese forces were to withdraw to railway zone as soon as safety of Japanese lives and property permitted. Local authorities could alone judge when conditions warranted withdrawal, but he hoped that it might be possible in a very few days.

¹ No. 530.

From newspaper reports about conditions now prevailing I doubt withdrawal being possible for some little time.²

Repeated to Peking.³

² With reference to this telegram, Sir F. Lindley reported in his telegram No. 176 of September 29 that the United States Chargé d'Affaires in Tokyo had been instructed to ask the Japanese Government for permission to send American officers to Manchuria to obtain information. Tokyo telegram No. 179 of September 30 reported that the Minister for Foreign Affairs had no objection. See *Foreign Relations of the United States 1931*, vol. iii, pp. 85 and 90-91.

³ This telegram was repeated to Geneva by the Foreign Office on September 29.

No. 541

Sir M. Lampson (Peking) to the Marquess of Reading
(Received September 30, 9.0 a.m.)

No. 426 Telegraphic [F 5259/1391/10]

PEKING, September 29, 1931¹

I have authoritative information that Young Marshal is also aware of a swing towards Russia amongst his 'Youngmen'. They claim that in Russia now lies their hope against Japan if the League etc. fail China in her hour of need.

2. I cannot estimate how serious this move may be and it is all still quite vague. I do know however that Mo Teh-hui head of Chinese delegation at present in Moscow is believed by Mukden officials to be very pro-Russian. At the same time I have no indication that the Young Marshal himself is in favour of it. Indeed contrary. Nevertheless it is a very natural train of thought no doubt encouraged by the press summaries appearing here of hostile criticism of Japanese activity by Moscow newspapers. In short Japanese action may well have . . .² ideas in the Chinese by her action not only inimical to her own interests in China but to those of all who wish to prevent spread to China of communism.

3. It would be most useful to know if His Majesty's Ambassador at Moscow has any indication as to what Russian reaction to the situation now developing really is.³

Repeated to Tokyo, Mission and Commander-in-Chief.

¹ The time of despatch is not recorded.

² The text is here uncertain. Another text here read: '. . . have set ideas in motion of action not only. . . '.

³ No. 533 was repeated to Peking by the Foreign Office on September 30.

*The Marquess of Reading to Sir F. Lindley (Tokyo)**No. 504 [F 5325/1391/10]*FOREIGN OFFICE, *September 29, 1931*

Sir,

The Japanese Ambassador told me that his departure had been postponed for the present¹ and that he would be remaining here for some time.

He then referred to the Manchurian situation and to the Sino-Japanese affair. He referred to the protection which had been afforded by our soldiers at Hong Kong,² and said he had been commissioned by his Government to convey their thanks to His Majesty's Government. He said that, notwithstanding that protection, there was still anxiety because of the excitement among the Chinese population, and he understood that the Japanese Minister for Foreign Affairs had made representations to you. I referred to the telegram received from you in relation to your interview with the Minister for Foreign Affairs and to the orders telegraphed to the Governor of Hong Kong, who would do what was possible in the situation.

Mr. Matsudaira said his Government were concerned about the proposal to send observers, from the League or elsewhere. The Japanese people would misunderstand it and think it was interference with the Japanese Government's effort to maintain their treaty rights. Military attachés (including our own) and foreign journalists were already there on the spot and no objection was raised by Japan. The Japanese Government had done and was doing everything possible to localise the troubles, and would withdraw as soon as possible. They had already reduced their forces at Mukden and Kirin and two other small places, but they could not withdraw from there at once on account of the risks to the Japanese and Korean population. They were under the menace of mob violence and of bandit attacks. The Ambassador desired to assure me, on behalf of his Government, that Japan had no territorial or political ambitions—their aim was to have their treaty rights respected. Japan had been patient in the past and the Government had been and was now criticised for not having taken earlier steps; the Government had remained patient until it was forced by recent incidents to take action. He repeated what he had told me at an earlier interview³ regarding the numbers of troops Japan had in Manchuria. The total number—some

¹ Mr. Matsudaira had arranged to visit Japan.

² On the night of September 26 there had been anti-Japanese riots in Kowloon, and six Japanese subjects were murdered before order was restored. Severe measures were then put into effect to prevent further outbreaks. Sir F. Lindley reported in his telegram No. 170 of September 28 that Baron Shidehara had sent for him that afternoon, when he made representations on the same lines as Mr. Matsudaira. Sir F. Lindley was subsequently instructed in Foreign Office telegram No. 118 of October 1 to 'convey to Japanese Government an expression of the profound regret of His Majesty's Government in the United Kingdom at the murder of Japanese subjects in a British colony'.

³ See No. 552.

14,000—was less than the number allowed by their treaty rights. The Japanese Government were entitled to require, and did require, that proper protection should be given by the Japanese Government to the Japanese residents. Japan was entitled to ask for this, and it was generally recognised internationally. He recalled what had happened in Shanghai in 1927 when British troops were introduced there for the purpose of the protection of British residents.

I am, &c.,
READING

No. 543

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received September 30, 11.30 a.m.)

No. 178 Telegraphic [F 5310/1391/10]

TOKYO, September 30, 1931, 4.15 p.m.

Your telegram No. 115.¹

French Ambassador spoke to Minister for Foreign Affairs on September 25 in the same sense as I did to Vice-Minister on September 24. See my telegram No. 160² and my telegram No. 163.³

French Ambassador never received instructions to act. He was informed of the resolution of Council but was instructed later that the necessity for League of Nations . . .⁴ had passed.

German Chargé d'Affaires on telegraphing for instructions was also told that necessity had passed.

I did not ask Japanese Government to accept observers but nevertheless . . .⁵ representations reminding them of their obligations as to this side of League of Nations . . .⁵ to observe treaty engagements. As regards observers Minister for Foreign Affairs told me proposal had been made to Japanese Ambassador in London at Foreign Office and I replied that I had no instructions to press it.

Though the position was embarrassing for me⁶ no great harm has been done.

¹ No. 538.

² No. 528.

³ No. 526.

⁴ The text was here uncertain. The word 'action' was here inserted on the file copy in accordance with a Tokyo letter of November 14, but it is evident from that letter that the text should read: '. . . necessity for action had passed.'

⁵ The text was here uncertain. This passage was later amended (cf. note 4 above) to read: '. . . observers but confined my representations to reminding them of their obligations as leading member of League of Nations to observe . . .'.

⁶ Sir F. Lindley commented on this episode in his despatch No. 481 of October 1 (not printed) wherein he stated in particular: 'I was a good deal embarrassed as to what course I should follow and . . . it seems to be necessary to emphasize the apparent lack of co-ordination between the resolutions taken at Geneva by the representatives of the various Governments and the instructions issued by those Governments in order to carry out the terms of the resolutions.'

I informed Minister for Foreign Affairs that [*sic*] when . . .⁷ comes to representations my colleagues were agreed to do the same. No further action here is necessary.

Repeated to Peking.

⁷ The text was here uncertain. This passage was amended to read: ' . . . when making representations that my colleagues. . . '.

No. 544

Sir M. Lampson (Peking) to the Marquess of Reading

(Received September 30, 6.0 p.m.)

No. 442 Telegraphic [F 5308/1391/10]

PEKING, September 30, 1931¹

My telegram No. 429.²

On my instructions Mr. Holman saw Japanese Secretary in charge here this morning and drew his serious attention to aeroplane attack on Mukden-Tientsin train September 24. He communicated to Mr. Yamada [Yano] verbally facts of incident as stated by Mr. Thompson and explained that repetition of such incidents would constitute a danger to lives of British subjects who might be travelling or employed on railway and should at all costs be prevented. Mr. Holman added that in the circumstances I had felt bound to report facts of the case to Your Lordship.

Mr. Yamada [Yano] took note of these representations and said that his Government had instructed him this morning to see Mr. Thompson in order to obtain a full statement from him.

Mr. Yamada [Yano] enquired whether to save time he could be furnished by this Legation with a copy or summary of Mr. Thompson's letter to Acting Consul-General, Tientsin.

I am therefore communicating to him summary of the case.

Mr. Yamada [Yano] concluded by saying that his Government had instructed Japanese authorities at Mukden to institute a serious enquiry into the incident which he personally admitted as quite indefensible.

Repeated to Tokyo, Mission and Tientsin.

¹ The time of despatch is not recorded.

² Not printed. This telegram of September 30 summarized an account by Mr. Thompson, Chief Accountant of the Peking-Mukden Railway, of an attack on a passenger train in which he was travelling, by a Japanese aeroplane on September 24. For Mr. Thompson's account see also *League of Nations Official Journal*, December 1931, p. 2466.

No. 545

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 1, 9.0 a.m.)

No. 432 *Telegraphic* [F 5313/1391/10]

PEKING, September 30, 1931¹

Following received from Mission No. 128 September 28. Begins:—

In reply to my query as to what steps were being taken to counteract influences mentioned in my immediately preceding telegram,² Minister of Finance stated that apart from endeavour to put things in their proper perspective before the public there was always the last resort of war with Japan and inevitable defeat. This would be better than that China should fall into the hands of communists and might succeed in unifying the country. He had definite information that several of the Manchurian generals were in favour of soliciting help from Russia against Japan and that even the Young Marshal's brother the Mayor of Tientsin was of a similar mind.

I report above, wild though it may sound as it is from Dr. Soong as ³ President that Minister for Foreign Affairs is apparently taking his instructions during this crisis since consultation with Central Executive Committee is impossible when quick decisions have to be taken. Dr. Rajchman and Walters of League Secretariat who have been staying with Dr. Soong throughout the past week confirm the above and testify from what they have heard to increasing difficulty of Government's position. . . .⁴ Soong dynasty and Dr. Wang owing to recent developments.

¹ The time of despatch is not recorded.

² See No. 547.

³ The text is here uncertain. Another text here read: ' . . . Dr. Soong, as intermediary with the President . . . '.

⁴ The text is here uncertain. Another text here read: ' . . . Government's position and particularly that of Soong . . . [text uncertain] and Dr. Wang . . . '.

No. 546

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 1, 9.0 a.m.)

No. 441 *Telegraphic* [F 5318/1391/10]

PEKING, October 1, 1931, 11.28 a.m.

Following received from Shanghai No. 139 September 29. Begins:—

Addressed to Peking No. 139, copy by post to Nanking.

I am requested by Boothby of British and Chinese Corporation to inform you that he has received from British railway officials confirmation of cutting of line at Mukden and Yingkow preventing all access of trains to these terminus stations with consequent entire dislocation of traffic and also of

attacking of passenger trains by Japanese aeroplanes and of air bombardment of Tahan station. He requests you to make such representations as you consider possible to Japanese authorities on behalf of Corporation against this interference with railway¹ in which British interests are largely concerned and if possible arrange similar representations in Tokyo. He has telegraphed Tokyo and to his principals in London and is himself leaving tomorrow by Japanese steamer for Dairen and Mukden. He will be grateful for assistance of British Consul-General Mukden in seeing Japanese officials to represent to them position of Corporation in regard to British interests in the railway.

¹ i.e. the Peking-Mukden railway.

No. 547

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 1, 9.0 a.m.)

No. 431 Telegraphic [F 5312/1391/10]

PEKING, October 1, 1931, 12.12 p.m.

Following received from Mission No. 127 September 28 begins:—

My telegram No. 117.¹

In conversation with Minister of Finance last night latter appeared considerably perturbed at effect of initial news of Council's decision² on public opinion. This morning nearly all the Chinese press has published trans-oceanic agency (German) version which represents decision as Japanese victory and snub for China.

News has increased anti-governmental agitation especially amongst left wing of party and placards 'Down with Dr. Wang' were yesterday posted in the capital.

These elements are encouraged by especially anti-Japanese attitude of Russian press and are clamouring for a *rapprochement* with Moscow.

Meanwhile Communist propaganda against the Government is being intensified and causing considerable concern.

Above is Dr. Soong's estimate of the situation.

¹ See No. 534.

² For the meeting of the Council of the League of Nations on September 30 and for the resolution adopted see *League of Nations Official Journal*, December 1931, pp. 2307-9. Cf. also No. 687, paragraph 2.

No. 548

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 1, 11.50 a.m.)

No. 182 Telegraphic [F 5311/1391/10]

TOKYO, October 1, 1931, 5.0 p.m.

Sir M. Lampson's telegram No. 442.¹

Ministry of War have published . . .² this morning that enquiry has shown that Japanese aeroplane was engaged with hidden Chinese troops when train passed in the vicinity. Statement concludes with words 'we cannot believe any of the bullets touched the train'.

I told Vice-Minister for Foreign Affairs this morning speaking purely personally as a friend of Japan that Ministry of War seemed to have taken a leaf out of the Chinese book by denying facts which were well-known to be true. Unfortunate impression made by the incident would only be increased by denial.

Repeated to Peking.

¹ No. 544.

² The text is here uncertain.

No. 549

Mr. Strang (Moscow) to the Marquess of Reading
(Received October 12)

No. 511 [F 5591/1391/10]

MOSCOW, October 1, 1931

My Lord,

M. Karakhan in conversation two days ago with one of my colleagues, who desires to be nameless, made the following remarks about the situation in Manchuria:—

2. The Japanese policy in China is diametrically opposed to that of America. The State Department desire to see a united China under a *bourgeois* Government and for this reason they have consistently supported the Kuomintang. It is to the Japanese interest, on the other hand, to see China divided. The Japanese have always worked for disintegration. The latest Japanese step in Manchuria is in keeping with this policy. One of their objects is once more to separate Manchuria from the rest of China and to secure the establishment in Manchuria of a new Government favourable to their interests. If they pretend to desire anything else they are fooling the Americans.

3. The Soviet Government are convinced that the Japanese will not extend the area of their occupation, and they have no fear whatever that the

Japanese will occupy Harbin.¹ A day or two ago the Japanese Ambassador in Moscow explained the Japanese programme to M. Litvinov, stating that Japanese troops would shortly be withdrawn from such and such places. This programme has, up to the present, been fulfilled to the letter.

4. M. Karakhan said that the Japanese troops were behaving very badly in Manchuria and acting with unnecessary severity towards the population. Such conduct was in sharp contrast to the exemplary behaviour of the Soviet troops which entered Manchuria two years ago. The Red army had made a point of convincing the local population that they came with no hostile intent, but rather as friends, so far as they were concerned. This development seemed to give M. Karakhan some satisfaction, as it would no doubt tend to intensify the anti-Japanese movement in China.

I have, &c.,

WILLIAM STRANG

¹ In this connexion Sir M. Lampson transmitted in Peking telegram No. 449 of October 1 the following report from H.M. Consul-General at Harbin: 'Soviet are undoubtedly watching the situation closely but there are no indications of any activity or intervention by them.'

No. 550

Sir F. Lindley (Tokyo) to the Marquess of Reading

(Received November 3)

No. 479 [F 6279/1391/10]

TOKYO, October 1, 1931

My Lord,

My despatch No. 459¹ of the 17th ultimo had not actually left Japan before the long tension in Manchuria was ended by the explosion on the South Manchuria Railway Line a little North of Mukden. Whether that incident was a genuine attempt of ill-disciplined Chinese troops to interfere with the line or whether it was engineered by the Japanese will probably never be known for certain. In any case, it was the excuse for a momentous decision. The perplexities which have made Japanese policy in China so vacillating of late years, to which I drew attention in paragraphs 5 and 6 of my despatch No. 392² of July 22nd [23rd] last, were suddenly brought to an end. The defence of Manchurian interests had triumphed over commercial considerations in China as a whole.

2. If one looks for a sound reason for this sudden decision—a reason sufficient to convince a Cabinet of sensible civilians—it is difficult to find; though popular exasperation at Chinese tactics, especially in Manchuria, had been growing steadily and had reached a dangerous point. In China there seems to be genuine surprise at this fact, even some difficulty, not confined to Chinese, in accounting for it. My own feeling is that it was due less

¹ No. 503.

² No. 495.

to such serious Sino-Japanese differences regarding competing railways, treatment of Korean immigrants, export duties on Fushun coal and double customs duties at Dairen than to anti-Japanese propaganda and Chinese truculence, such as that reported by His Majesty's Consul at Newchwang in his despatch No. 14³ of June 30th enclosed in Foreign Office despatch No. 447³ (F 4328/139/10) of August 25th. But, in any case, there was no sign on September 17th that a crisis had been reached. On the contrary, the Nakamura case had actually made a step towards settlement; and Baron Shidehara gave both my colleagues and myself the impression that he was confident of entering smoother waters.

3. The Military party have never been in doubt that South Manchuria is worth any volume of actual or potential trade. It was conquered from Russia in an heroic campaign which opened the province to Japanese enterprise and penetration. Full advantage has been taken of the opportunities offered; and the vast immigration of Chinese from the tortured provinces further South has testified to the benefits conferred by the presence of a few thousand Japanese troops. For two months and more preceding September 18th General Minami, the Minister of War, did all in his power to rouse popular opinion on the subject of Manchuria. Pamphlets about Captain Nakamura's murder were dropped in thousands from military aeroplanes; and the public, taught from childhood to regard Manchuria as Japan's most vital interest, gradually responded to this stream of propaganda.

4. Such are the considerations which have led most of my colleagues and myself to believe [*sic*] that this Manchurian adventure is due, not to any well-weighed Cabinet decision, but to the Army on its own initiative. And this conclusion is strengthened by the course of events after September 18th. The first Cabinet Council sat for eight hours; and it was followed by others almost as long. The officials at the Gaimusho⁴ were in a state of quite evident anxiety and perplexity; and I think it is certain that they, at any rate, had no inkling of what was in the wind. It is possible, though not I think probable, that the War Office were also in the dark; and that when the explosion occurred the local Commander, sure of the support of his chiefs, put into immediate force a plan which had been long perfected down to the last detail for such an emergency.

5. Faced with an accomplished fact and an international crisis, Baron Shidehara and his civilian colleagues were bound to accept the position and take the responsibility for what had occurred. Ministers would probably have felt so bound in any country. In Japan they were doubly bound by every dictate of Japanese honour. And the exasperation they may have felt at having their hands forced was soon mitigated by the popularity of their action. There was not a dissentient voice in the press; and the Prefectural

³ Not printed. This despatch reported that 'the Chinese authorities are indulging in a display of ill will against Japanese individuals'. After citing several incidents, Mr. Bristow concluded: 'the Japanese are at present exercising great self-control, but it is doubtful if their forbearance will not encourage the Chinese to further displays of animosity'.

⁴ Japanese Ministry of Foreign Affairs.

Elections, fought on purely party lines a week ago, brought to the Minseito party a measure of success beyond their most sanguine hopes.

6. Thus we have a Government and a people united in the defence of what they believe to be the most vital interest of their country. The Government, at least, realise that hardly less vital interests have, for a time at least, been sacrificed owing to the decision taken; and they must be expected to strain every nerve to reap results in Manchuria which will compensate for their losses in China proper. In this connection I venture again to refer Your Lordship to paragraph 6 of my despatch No. 392, in which I expressed the opinion that the Japanese had not yet assimilated the ideas of international relations which have guided British policy since the war. When their vital interests are threatened, as they believe them to be now, they will be guided solely by regard for those interests; and they will only tolerate intervention from the League of Nations or from any other quarter if they believe it dangerous to those same interests not to do so. It was this conviction which prompted me to address to you my telegram No. 166^s of the 25th ultimo; for I feared that the Council of the League, prompted by their desire to protect the weaker party and anxious lest China should be alienated, would press on the Japanese Government some proposal which public opinion in its present state, if not the Japanese Government left to itself, would refuse to accept. The prudence shown by the League has, up to now, avoided this danger; and it is not too much to say that, on the day of writing, the League has a very good press in this country.

7. It must not be assumed from the preceding paragraph that Japan is indifferent to opinion at Geneva. This is far from being the case. But when it comes to a choice between deference to that opinion and her vital interests she will choose the latter. In the present instance she does not believe that it is as vital for her future to stand well with the League as to defend herself in Manchuria. When it comes to intervention from the side of the United States or from Russia, she is less sure of herself. That she would not seriously risk a war with either is, I think, certain. And I am inclined to believe that she would yield further to pressure from Washington than from Geneva, even with no possible threat of war in the background.

8. If the Military party are so dominant and the temper of the country such as described above, there may well be anxiety as to the future course of Japanese policy. Without attempting to prophecy [*sic*], it is useful to bear certain aspects of the position in mind. The Military party, though we believe they forced the issue, lost their full control of events as soon as the military movements of the opening days of the crisis came to an end. Automatically the Cabinet, as a whole, re-asserted its authority when it was no longer possible to urge local military necessity as an excuse for action. The further despatch of troops and the contemplated occupation of fresh points were vetoed, and the total number of the forces in Manchuria was kept below the Treaty limit of fifteen thousand. Troops were even withdrawn in part or in whole from a good many points outside the Railway zone. In short,

^s No. 531.

a policy of prudence and moderation quickly succeeded the military outburst. This is not surprising when one considers that the League of Nations, the United States and Soviet Russia all had their eyes directed on Manchuria.

9. As regards China, the present position is that Japan has successfully resisted Chinese attempts to introduce third parties into the negotiations for a settlement. At the beginning of the crisis Mr. T. V. Soong proposed unofficially that a mixed Sino-Japanese Commission composed of eminent statesmen should meet. The Japanese Government accepted this proposal on condition that the Commission should begin its work by laying down the principles which should govern the discussion of the very numerous (said here to be three hundred in number) Sino-Japanese disputes in Manchuria. If this condition were accepted, eminent Japanese members would be appointed at once; and Baron Shidehara hoped that T. V. Soong and the Young Marshal would be two of the Chinese members. Relying on the intervention of the League of Nations, the Chinese dropped this proposal, although its acceptance by the Japanese was an important concession by the latter who had, up to then, attempted to treat their Manchurian difficulties as purely local matters. Unless Japan is forced by pressure from Washington or Moscow, unlikely developments as far as we can judge, she will insist on negotiations with China alone; and it is difficult to see what advantage the Chinese will ultimately gain by continuing their present tactics of holding aloof.

10. Although Japan holds all the trump cards in South Manchuria, she has, as already indicated in this despatch, sacrificed her enormous interests in the rest of China. The Japanese boycott seems from press accounts to be more thorough than ever before; and large numbers of Japanese have had to leave the less accessible towns in China for fear of violence. That there has been no massacre of Japanese in China is a matter of surprise, and will, no doubt, be taken by the Military here as a proof of the efficacy of their methods. It is lamentable to relate that it has been reserved to the British Colony of Hong Kong to afford the only example of serious anti-Japanese violence, resulting in the death of six Japanese subjects and the wounding of a number more. To appease public opinion, the Japanese Government ordered a man of war to the Colony. She stayed, according to the press, only a day or two; but it is doubtful whether such a humiliation has ever been suffered by a British Colony in the Far East before. Anti-Japanese feeling in China seems still to be growing and, quite apart from a possible declaration of War from Nanking, the position of the many Japanese in the Middle Kingdom may any day become very serious indeed. The possible repercussions of anti-Japanese excesses in China is, at the moment, the darkest cloud on the horizon.

11. Before closing this despatch, it may be useful to write a word about political developments in the three Eastern Provinces. The Japanese Government have given solemn assurances, both to the League and to Washington, that they have no territorial ambitions whatever. These assurances can, we believe here, be accepted as completely genuine. But the future of the

Provinces is in the melting pot. The long absence of the Young Marshal from Mukden had, as is thought in Tokyo, already weakened his hold on the Provinces before the recent events. In fact, it was freely stated that he did not dare to return. In any case, the Japanese invasion destroyed the last of his authority; and the discomfort [sic] of his two hundred and twenty thousand Chinese soldiers, widely scattered it is true, by ten thousand Japanese regulars, revealed at the same time the extreme weakness of his military force and the astonishing self-confidence and efficiency of his adversaries. In these circumstances it is not surprising that the whole administration crumbled or that various movements were set on foot to set up more or less independent Governments. At the moment of writing there appear to be a number of them, the most important of which is that of Kirin. It is not to be supposed that they are more than ephemeral administrations; but the Three Eastern Provinces must have a Government and it is of interest to examine the possibilities.

12. In my telegram No. 171⁶ of the 28th September I reported that Baron Shidehara had informed me that the strictest orders had been given both to the Japanese Military and civilians in South Manchuria not to meddle in Chinese politics. That individual Military officers have so meddled in the past is hardly to be doubted. And, if reports from Peking are to be credited, they have even contemplated setting up a Manchurian Dynasty entirely independent of the rest of China. Though it seems incredible that the Japanese Government can have sanctioned these antics, it is certain that the Chinese believe that the Japanese Government intend to set up in the Three Eastern Provinces some Government which will be subservient to themselves and more or less independent of Nanking. My own view is that the Japanese Government will proceed with the greatest caution. Their interest seems to lie in allowing things to sort themselves for the time being. They require a settled Government and are not likely to compromise the formation of such a Government by premature pressure. Moreover they must never lose sight of Moscow. As far as one can judge here, the attitude of the Soviets has been singularly complacent during the crisis; and it is difficult to believe that, with so much on their hands, the Japanese Government will do anything to rouse that hornets nest. Anything like a break up of the Three Eastern Provinces might well end in the establishment of a Soviet regime from Manchuli to Changchun and the revival of the Russian menace in its acutest form. And it is difficult to believe that the Soviets would not react against a Government of the whole Three Eastern Provinces obviously subservient to Japan.

13. This morning's papers announce extensive massacres of Koreans by Chinese in the notorious district of Chientao; and there seems little hope that conditions in South Manchuria will permit of the total withdrawal of Japanese troops to the Railway zone in the immediate future.

A copy of this despatch will be sent to His Majesty's Minister at Peking by safe opportunity.

I have, &c.,

F. O. LINDLEY

Sir F. Lindley (Tokyo) to the Marquess of Reading

(Received November 3)

No. 480 [F 6280/1391/10]

TOKYO, October 1, 1931

My Lord,

It may be convenient to give in a separate despatch as accurate an account as is possible from the data available at this Embassy of the course of events in Manchuria since September 18th. The information may not be either accurate or full, but no pains have been spared by the staff of the Embassy to make it as complete as possible. The political and international aspects of the question will be dealt with in later despatches. This one is confined to facts or supposed facts.

2. A section of the track of the South Manchuria Railway some three miles south of Mukden was blown up on the night of the 18th September. The Chinese troops in the vicinity were at once attacked by the Japanese railway guard and driven back. In the early hours of the following morning the main body of Japanese troops at Mukden attacked and captured the walled city after minor street fighting and, later on in the day, occupied the headquarters of the Manchurian army at Tungtaiying. In the course of the ensuing week, the following towns which lie on the main and branch lines of the South Manchuria Railway system, though they are actually outside the 'railway zone', were entered by Japanese detachments, in some cases only a mere handful of men:—Changchun (including Kwangchengtse, Nanling and Peiling), Fushun, Antung, Newchwang (Yingkow), Changtu, Liaoyang, Haicheng, Lienshankuan and Fenghuangcheng. Similar troop movements were also extended to Kirin, Chengchiatun and Taonan, which lie on the Chinese railway system, and to Hsinmin on the Peking-Mukden railway. In this connection I enclose herewith copies of two despatches from His Majesty's Consular officers at Dairen and Seoul and of two reports from the Military Attaché to this Embassy.¹

3. The only places where any serious fighting occurred were in the vicinity of Mukden and Changchun where Japanese casualties amounted to about 20 and 130 respectively. Elsewhere only two or three minor skirmishes were reported, and the Japanese authorities did not find it necessary to despatch more than one mixed brigade of reinforcements, which were supplied from the garrison in Korea, and even this addition is reported to have left the total number of troops employed considerably less than that which is permissible under Treaty for the protection of the railway zone. The main object of the Japanese forces was ostensibly to protect the lives and property of Japanese subjects. In the case of Kirin it was also to forestall the danger of a flank attack on the South Manchuria Railway by the Chinese forces collected there and to obtain through Tunhua an approach from the rear if required

¹ Not printed.

to Chientao, which would obviate the difficulty of a direct advance from the Korean side. It may be added that Mukden was apparently the only town to be taken over and occupied in the full sense of the word. Most of the others were merely entered by the troops, often not stronger than patrols, which remained for a day or two.

4. The movements of the Japanese were so swift that very little time was available to the Chinese population in Manchuria to organise the anti-Japanese excesses which might ordinarily have been anticipated. No report of any outrages has yet been announced beyond the throwing of bombs at certain Japanese offices at Harbin. The atmosphere in that town was, however, sufficiently tense to cause at least a partial evacuation of Japanese subjects. The withdrawal of Japanese troops to the railway zone has already begun but it is reported that the authorities do not intend to complete it until the restoration of peace and safety are fully assured. At the time of writing the General Staff announce that the only troops outside the zone are a mixed brigade in Mukden city and small detachments at Kirin, Cheng-chiatun, Hsinmin and Yingkow.

5. One of the most disagreeable incidents since the outbreak was the attack by a Japanese aeroplane on a passenger train going South from Mukden to Peking. This took place on the 24th September and several Chinese passengers were killed or wounded. The facts were fully verified by Mr. Thompson, Chief Accountant of the Railway, who was in the train. Today the Ministry of War published their version, of which an English translation is enclosed.² This account made a disagreeable impression on me; and I told Mr. Nagai in the course of conversation today that the Japanese General Staff seemed to be taking a leaf out of the Chinese book. The facts were quite well known; and to deny them would merely increase the very bad impression caused by the incident. As a friend of Japan I hoped he would be able to induce his Military colleagues to be more straightforward.

I have, &c.,

F. O. LINDLEY

² Not printed.

No. 552

*The Marquess of Reading to Sir M. Lampson (Peking)*¹

No. 821 [F 5324/1391/10]

FOREIGN OFFICE, October 2, 1931

Sir,

On the 21st September the Chinese Chargé d'Affaires called at the Foreign Office and left an *aide-mémoire* regarding the recent events in Manchuria, stating that on the 18th September Japanese forces had suddenly attacked and disarmed Chinese troops stationed at Pei Ta Ying. By the early morning

¹ Note in original: 'Also to His Majesty's Representative, Tokyo, No. 505'.

of the 19th they had occupied Mukden, and similar action had been taken at Changchun, Kuanchengtzu and other places where Chinese troops were stationed. Further, the Japanese army in Korea had been ordered to mobilise. The ability of the Japanese Government to curb the activities of the military in accordance with their expressed desire to localise the area of conflict was questioned by the Chinese Government. The *aide-mémoire* concluded by stating that the report that Chinese troops had destroyed a railway bridge on the South Manchurian Railway as a protest against the action of the Japanese forces was entirely without foundation.²

2. On the 22nd September the Japanese Ambassador called to give me his version of what had occurred. Mr. Matsudaira contended that the Japanese Government were responsible neither for the origin of the Sino-Japanese dispute as a whole nor for the actual situation which had arisen in Manchuria. His Excellency pointed out the fact that China had over 200,000 troops in Manchuria of which 24,000 with forty guns centred round Mukden, whereas the total number of Japanese troops did not exceed 10,400 and sixteen guns in the whole of Manchuria. There were 100,000 civilian Japanese subjects employed on the railway and another 100,000 engaged in other occupations, without counting 6,000 Korean Japanese subjects. His Excellency maintained that, given such a situation, it would obviously be the height of folly for the Japanese to seek a collision against such overwhelming odds.

3. On the 23rd September the Chinese Chargé d'Affaires called again. He had been instructed by his Government to state that the press reports of the occupation of further points in Manchuria by Japanese forces could be regarded as accurate. He mentioned in particular the occupation of Harbin, Kirin and Antung. He was instructed, however, to deny the report that the Chinese Government had proposed the constitution of a Sino-Japanese Committee to consider all outstanding Sino-Japanese questions with regard to Manchuria.

4. The real truth of the matter, Dr. Chen said, was that the Japanese Minister to China had approached Mr. T. V. Soong in his capacity of Deputy President of the National Government on the 19th September in Shanghai and had made a proposal to this effect. Mr. Soong had replied that it might perhaps be considered.

5. On or about the 21st September, however, having regard to the extension of the Japanese operations in Manchuria, Mr. Soong had replied to the Japanese Minister that the proposal could not be entertained whether the contemplated discussions were formal or informal.

6. These statements of the respective contentions of the Japanese and Chinese Governments with regard to the present situation in Manchuria were received in each case without comment.

I am, &c.,
READING

² See No. 513.

No. 553

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 3, 11.0 a.m.)

No. 445 *Telegraphic* [F 5362/1391/10]

PEKING, October 3, 1931, 2.38 p.m.

Manchuria.

Koo realizes that there is a limit to the powers of League of Nations and that in face of Japanese opposition to the two points of second part of Council's resolution there is not much to be done.

He referred to Lord Cecil's remark at Council meeting September 28 (as reported by Reuter) encouraging Sino-Japanese direct negotiations¹ and evidently feels that this may prove essential. I expect (though he did not say so) that it may be in connexion with discussion of this that he has been summoned to Nanking, see my telegram No. 446.²

Repeated to Mission, Commander-in-Chief, Tokyo, Hong Kong and General Officer Commanding No. 22.

¹ See *League of Nations Official Journal*, December 1931, p. 2292.

² Not printed.

No. 554

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 3, 11.50 a.m.)

No. 447 *Telegraphic* [F 5364/1391/10]

PEKING, October 3, 1931, 2.38 p.m.

My telegram No. 426.¹

W. Koo now confirms that there has been a move in the direction of turning to Russia but evidently does not take it at all seriously.

He informs me that Mo Teh-hui has telegraphed from Moscow several times gist of it being that if Japan advanced north from South Manchurian Railway Russian Government would take a serious view and that they were certainly watching the situation carefully. According to Koo's information reported concentration of Russian forces on the Ussuri and Manch . . .² frontier is not correct.

Repeated to Tokyo, Mission and Commander-in-Chief.

¹ No. 541.

² The text is here uncertain. It was suggested in the Foreign Office that this word should read 'Manchouli' or 'Manchurian'.

No. 555

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 4, 10.30 a.m.)

No. 460 Telegraphic [F 5370/1391/10]

PEKING, October 4, 1931, 9.35 a.m.

Following received from Mr. Ingram No. 134 September 30. Begins:—

My telegram No. 128.¹

I am keeping in close touch with Dr. Soong and Admiral Chen and am surprised by degree of their reaction to growth of popular agitation condemning the Government's conduct on this crisis and demanding war.

Both speak of war as the only ultimate solution if the League fails to secure the withdrawal of Japanese to the railway zone in the near future though both admit that there are no resources wherewith to carry it on and that it must end in defeat. Slogans such as 'better death than dishonour', 'sooner die fighting with backs to the wall' come with surprising readiness from their lips. Both repeat the argument that if Japan does not withdraw, Manchuria is lost; it is therefore better that loss should come after an honourable blow has been struck in her defence than that China should take the loss lying down.

I feel bound to report this wild talk as it comes from responsible lips. You will probably know whether the Young Marshal who after all is principally concerned, subscribes to it.

¹ See No. 545.

No. 556

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 5, 9.0 a.m.)

No. 465 Telegraphic [F 5381/1391/10]

PEKING, October 5, 1931, 12.20 p.m.

Following received from Mission telegram No. 144 of October 3. Begins:

Following is text referred to in my immediately preceding telegram.¹

1. The Chinese Government has the honour to inform Your Excellency that in its view events of next twelve days during which the Japanese Government is expected by Council of League of Nations completely to withdraw its troops to the railway zone in terms of Council's resolution of September 30, will have the most far reaching consequences for the effective maintenance of peace and present status in the Far East.

¹ It has not been possible to trace this telegram in the Foreign Office archives. It would appear that this telegram referred to the message addressed by the Chinese Government to Sir M. Lampson printed below: cf. No. 558.

2. On its part the Chinese Government has undertaken before the League's Council to assume the responsibility of safety of lives and property of Japanese nationals outside of the railway zone during the process of withdrawal of Japanese troops and the re-establishment of Chinese local authorities and police forces.

3. The difficulties of this task are immeasurably increased by the situation created by the Japanese action which has violently disturbed the machinery of the central control in Manchuria. Every day brings fresh incidents such as aerial attacks on trains, the disarming of isolated Chinese units, imposing of Japanese military authority on various localities etc., etc.

4. Your Excellency is aware that the Council of the League resolve, in absence of any unforeseen occurrences which might render an immediate meeting essential, to convene at Geneva on Wednesday October 14 in order to consider the situation as it then stands, and that information with regard to development of situation is awaited not only from Chinese and Japanese Governments but also from other members of the Council.

5. Under the circumstances as stated, the Chinese Government attaches the very greatest importance to the presence in Manchuria of civil and military representatives of individual members of Council and has the honour to request that Your Excellency take immediate steps to be so represented and that information collected by these representatives on the progress of evacuation and all relevant circumstances be telegraphed day by day to Secretariat of League of Nations so as to keep the Council fully cognizant of the facts.

On its side Chinese Government will do its utmost to give all facilities to representatives of Your Excellency in this most important task. The Chinese Government would be grateful if the present request were considered to be of the most extreme urgency. General Chang Hsueh-liang has been instructed by National Government to take all measures necessary to help your representatives and Chinese Government will be grateful if Your Excellency would communicate to him the names of your representatives.

(Signed) FRANK W. LEEDS [LEE]²

² Dr. Lee was appointed Chinese Acting Minister for Foreign Affairs on September 30, following the resignation that day of Dr. Wang, who had been wounded in a students' demonstration on September 28. Dr. Sze, who was then acting as Chinese Delegate at Geneva, was appointed to succeed Dr. Wang as Minister for Foreign Affairs.

No. 557

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 5, 9.0 a.m.)

No. 467 Telegraphic [F 5374/1391/10]

PEKING, October 5, 1931, 1.30 p.m.

Following from Military Attaché who returned to Peking October 2. Begins.

Military situation in Manchuria on my departure on September 30 had stabilised in so much as the Japanese still held all points mentioned in my telegram No. 19 to Peking,¹ that is to say the following points outside the railway zone—Kirin, Tunghua, Chenchiatun and Chiuliwho [[?] Chuliwho]: and Yingkow as a base.

2. Conversation with general staff of Japanese Headquarters left me with distinct impression that occupation as it now existed would be maintained till such time as Chinese representatives were prepared to discuss matters in committee on similar lines to those followed at Habarovsk in December 1929.² Withdrawal of detachment at Tunhua was given me as an early possibility but conditions in East Kirin were too uncertain to permit of this being done yet.

3. Frequent allusions were made in conversation to Japanese interests and necessity for still keeping control in an area where demoralised armed Chinese troops to the number of about 14,000 were discerned [*sic*] to be still roaming about. In point of fact this number is much exaggerated; there are now not more than 65,000 troops in all Manchuria. 15th Kirin independent infantry brigade now north of Kirin and 7th brigade driven out of Peitaiyang and now in Kaiyuan region were mentioned as being still in a position to give trouble. Hsinganfu troops responsible for murder of Captain Nakamura were also liable to create disorder at Taonan from where Japanese nationals had to be withdrawn leaving their property at the mercy of Chinese. It was in view of this latter contingency that frequent armoured car patrols were sent in that direction.

4. Protection of railway zone under present chaotic conditions demanded that points such as Chuliwho (P.M.R.) and Cheng . . .³ were held. All the above is Japanese view. In Japanese military circles attention was centred on convincing myself and my colleagues from Peking that Chinese were responsible for present state of affairs in that they attacked a railway protected by troops whose first axiom of war has always been 'the best defence is attack'. This remark I took as intended to convey the idea that, appearances to the contrary, Japanese had been and were still on the defensive.

5. I have not since heard nor can I find anything calculated to alter at all the impressions conveyed to you in my previous telegrams Nos. 15⁴ and 19 that Japanese were responsible for outbreak on the night of the 18th/19th. Japanese attack was a set piece, break in railway served as a pretext and was conveniently arranged at a point which put the Japanese railway guard in a favourable position for dealing with the only Chinese troops worth mentioning in the vicinity of Mukden. No other conclusions can be drawn from a detailed analysis of events on the night in question; moreover a careful sifting of facts and fancies goes far to show that Japanese military fearing a settlement of Nakamura case which would leave the issues as far as they were concerned in much the same position as before, decided to bring to an end what was to them intolerable arrogance of inferior soldiery who contrary to

¹ Not printed.

² See Appendix 1.

³ The text is here uncertain.

⁴ Not printed.

treaty occasionally dared to march in formed bodies across their railway or shoot individual sentries performing their normal duty.

6. Should necessity arise it is evident that Japanese Cabinet will exploit to the full the current idea that military alone were responsible for this *coup*. The Cabinet doubtless counselled patience and putting a brake on those enthusiasts who favoured positive action in Manchuria; but before military arguments to the effect that the army was every day losing men and prestige in Manchuria these men were powerless. Defensive measures were agreed to and retaliatory . . .⁵ were sanctioned in the event of Chinese soldiery taking the initiative. It was the time and nature of the pretext that the Government in Tokyo knew little about.

7. Presuming he is reported correctly by Reuter from Geneva on September 28 I am at a loss to account for Yoshizawa's statement that 'Military Attaché was following evacuation'. In my position as Military Attaché to the Legation I amicably discussed situation with the Japanese staff but in no wise gave anybody reason to think that I was present otherwise than in my normal capacity. *In point of fact I witnessed the occupation not evacuation.*

8. Young Marshal has since my return told me in confidence stressing the accuracy of his statement that he had that day, October 3, wired to Nanking to the effect that in the event of China's present representations to the League at Geneva proving abortive he was prepared to offer Japan in exchange for *status quo ante* a monopoly of trade rights in Manchuria. His line of thought here is obvious but the point may be worthy of consideration.⁶

9. Full report⁷ follows by confidential mail in due course.
Repeated Mission and Commander-in-Chief.

⁵ The text is here uncertain.

⁶ A marginal note by Mr. Orde at this point reads: '? to frighten us about losing trade opportunities. C. W. O.'

⁷ Not printed.

No. 558

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 5, 5.10 p.m.)

No. 471 Telegraphic: by wireless [F 5388/1391/10]

PEKING, October 5, 1931

I discussed Waichiaopu message¹ at an informal meeting with the Spanish, French, American and German Ministers and Italian Secretary of Legation on October 5.

2. Spanish Minister after referring to apparent connexion between the Chinese message and paragraph nine of the Council resolutions of September 30² as reported here in the press said that he had already a few days before received instructions from his Government to send his Consul from Shanghai

¹ See No. 556.

² See No. 547, note 2.

to Manchuria to report (there is normally no Spanish Consul in Manchuria): he had now reported Waichiaopu message to his Government and awaited instructions.

3. I said I had done the same. I added that my first impression had been that the Chinese were trying to manoeuvre us into a course of action (on the lines of a commission) already rejected at the Council of the League of Nations. In this way the Chinese message seemed to me to complicate matters and to make it more difficult for us to do something which we should otherwise have done. Probably had the Chinese not sent their message I should already have despatched special representative to Manchuria to watch and report on the situation. Now I must await your instructions.

4. The French Minister said he had simultaneously with the receipt of the message received a telegram from Paris instructing him to supply all possible information concerning especially withdrawal of troops to South Manchurian railway zone, liberation of prisoners, and restitution of public buildings; but as Japan had expressed disapproval of 'general measures' this information should be collected as discreetly as possible. The French Minister who is now repeating Waichiaopu message to his government had added that in his view it should be taken very seriously in view of the grave issues involved.

5. United States Minister said he had received a similar telegram from the Waichiaopu but appealing to United States Government as parties to Kellogg pact and interested in the peace of the Far East. He had repeated the message to Washington. He added, for the confidential information of the meeting, that his Government had already, before receipt of the message, arranged with the Japanese Government to send two American representatives (see my telegram [No.] 455³) to observe the situation. These gentlemen were already in Changchun before Waichiaopu message at length . . .⁴ this message.

6. The German Minister said he had merely repeated Waichiaopu message to his Government and awaited their instructions.

7. In the course of general discussion it was decided (*a*) that it was inherently desirable that we should all have our representatives on the spot to report developments but that in view of apparent Chinese manoeuvre to get us to endorse their interpretation of resolution nine we should walk warily and avoid anything savouring of a formal commission and (*b*) that we should do nothing pending the receipt of instructions from our respective governments. United States Minister was recognised as being on a different footing as his Government had already sent representative by agreement with the Japanese Government.

8. I said I had thought of acknowledging receipt of Chinese message by saying I had repeated it to you for instructions and that in the meantime I was keeping my Government fully informed of such reports as reach me from Manchuria. But after further discussion we decided that as we might receive

³ Not printed. See, however, No. 540, note 2.

⁴ The text is here uncertain.

our instructions at any moment we would none of us send any reply until we had heard from our Government[s].

9. I request very urgent instructions. Before receipt of the Chinese message I had intended sending Military Attaché and Secretary of Legation to Manchuria to collect information and report on developments in the situation including progress of Japanese withdrawal but I shall now do nothing until I hear from you. I beg my instructions may include terms of reply to the Chinese Government. I share the views of my colleagues as to the gravity of the situation and regard the matter as most urgent.

Repeated to Mission.

No. 559

Mr. Patteson (Geneva) to the Marquess of Reading
(Received October 6, 11.45 a.m.)

No. 29 Telegraphic [F 5397/1391/10]

GENEVA, October 6, 1931, 12.0 noon

Following from Sir E. Drummond¹ for Mr. Cadogan. Begins:

No information yet arrived except Japanese and Chinese sources. I am told that French ready to send military and naval attachés but unwilling to move alone. Confidential information Nanking September 15th.² Could not Great Powers' Ministers at Peking arrange jointly to obtain trustworthy information (on the points mentioned in my letter³ and whether Japanese lives and property secure)? Fear not only League authority endangered by failure but also success of Disarmament Conference. If Council meeting on 14th takes place consider presence of Ministers for Foreign Affairs greatest importance.

¹ Secretary-General of the League of Nations.

² This sentence appears to be corrupt.

³ It has not been possible to trace this letter in the Foreign Office archives.

No. 560

The Marquess of Reading to Sir M. Lampson (Peking) and
Sir F. Lindley (Tokyo)

No. 303¹ Telegraphic [F 5388/1391/10]

FOREIGN OFFICE, October 6, 1931, 8.20 p.m.

If and when your French colleague receives instructions on lines suggested in my telegram No. 271 to Paris,² you should act similarly.

¹ No. 303 to Peking and No. 123 to Tokyo.

² No. 562.

No. 561

The Marquess of Reading to His Majesty's Representatives at Washington, Berlin, Rome and Madrid

No. 708¹ Telegraphic [F 5388/1391/10]

FOREIGN OFFICE, *October 6, 1931, 8.20 p.m.*

Please inform Government to which you are accredited of Peking telegrams Nos. 465 and 471² and of my telegram to Paris No. 271.³ You should enquire whether similar action will be taken by Government to which you are accredited.⁴

¹ No. 708 to Washington, No. 207 to Berlin, No. 262 to Rome and No. 70 to Madrid.

² Nos. 556 and 558.

³ No. 562.

⁴ Mr. Osborne replied in Washington telegram No. 626 of October 8: 'I have informed United States Government. They are doing their utmost to exercise restraint through Japanese/Chinese representatives here besides having already sent their representatives to Manchuria. It would be useful if I could inform them whether we and other Powers concerned will eventually do likewise.'

Sir H. Rumbold replied in Berlin telegram No. 207 of October 9: 'German representatives in China and Japan will be instructed to counsel moderation "in suitable terms" provided other representatives take similar action. Instructions to give such advice had been sent previously as a result of meeting at Geneva but suspended when it was discovered that they had not yet reached the French Ambassador in Tokyo. No special representative is being sent to watch events but the staff at Mukden is being strengthened by the return of Consul and retention of Acting Consul Kuhlborn who speaks both Chinese and Japanese...'

Sir R. Graham reported in his despatch No. 772 of October 9 that the Italian Minister for Foreign Affairs had agreed to take action similar to that of His Majesty's Government.

No. 562

The Marquess of Reading to Lord Tyrrell (Paris)

No. 271 Telegraphic [F 5388/1391/10]

FOREIGN OFFICE, *October 6, 1931, 10.45 p.m.*

Peking telegrams Nos. 465¹ and 471².

His Majesty's Minister in Peking reports that popular agitation against Japan has led to talk in responsible Chinese circles of war being the only ultimate solution. Chinese feeling is evidently greatly inflamed and some action which may have effect of restraining Chinese Government, partly by advising moderation and partly by meeting as far as possible their request in regard to despatch of neutral representatives to Manchuria, seems eminently desirable.

Please inform French Government that if they will instruct their representatives at Peking and Tokyo to counsel moderation on Chinese and

¹ No. 556.

² No. 558.

Japanese Governments alike and will send a representative from Peking to watch events in Manchuria, after obtaining agreement of Japanese Government in the same way as has already been done by United States Government, similar action will be taken by His Majesty's Representatives at Peking and Tokyo. Representatives of Powers would naturally report to their respective Governments and not to Geneva direct as contemplated by Chinese Government.

Repeated to Peking, Tokyo, Washington, Berlin, Rome, Madrid and Geneva.

No. 563

Letter from Sir R. Vansittart to Lord Tyrrell (Paris)

[F 5310/1391/10]

FOREIGN OFFICE, October 6, 1931

On a review of the discussions at Geneva of the Sino-Japanese affair in Manchuria, we are forced to the conclusion that the French Delegation there have acted towards our own with something less than perfect straightforwardness and good faith, and that, as the result of this, we have been manœuvred into isolated action in Tokyo which could only be interpreted by the Japanese Government as inspired by a less friendly feeling towards them than other countries cherished.

To make sure that our charge against the French Delegation is fairly presented, I will quote the *ipsissima verba* of the relevant telegrams, all of which you will have seen in the sections.¹

1. . . .²

2. 'French Government *are sending* following telegram to their Ambassador in Tokyo: "Please concert . . ."'³

3. 'You should take action similar to that of your French, German and Italian colleagues.' (Foreign Office to Tokyo, September 23rd.)⁴

4. 'Neither my French nor German colleague had received any instructions this afternoon.' (Tokyo to Foreign Office, September 24th.)⁵

5. 'I spoke to Minister for Foreign Affairs officially this afternoon and left *aide-mémoire* although my colleagues were still without instructions. I did not like exposing myself in this way but knowing importance attached by His Majesty's Government to compliance with resolution of League of Nations I thought it the better of the two evils.' (Tokyo to Foreign Office, September 25th.)⁶

¹ Copies of important telegrams circulated weekly to H.M. Missions abroad.

² A quotation comprising all but the last three sentences of No. 514 is here omitted. The last two sentences of the quotation were underlined by Sir R. Vansittart.

³ The concluding portion of this quotation, which comprised the remainder of the first and the second of the two paragraphs of No. 520 in inverted commas, is here omitted. In the second sentence of the quotation the words 'you should insist' were underlined by Sir R. Vansittart.

⁴ See No. 523.

⁵ See No. 526.

⁶ See No. 530.

6. 'Minister for Foreign Affairs then mentioned proposal to send observers delegated by League of Nations to Manchuria.

'He said Japanese Government considered proposal would lead to friction with military authorities on the spot and to a public outburst in Japan.

'At reception of journalists this morning they had all asked him with indignation which Government had proposed observers.

'If he had told them it was His Majesty's Government there would have been enormous head-lines attacking Great Britain in every paper.' (Tokyo to Foreign Office, September 25th.)⁷

7. 'French Ambassador *never received instructions* to act. He was informed of the resolution of Council but was instructed later that the necessity for League of Nations . . .⁸ had passed.' (Tokyo to Foreign Office, September 30th.)

Now this is a disquieting record. I have deferred writing to you about it until some legitimate feeling about the matter had subsided; and anyhow I should not wish it to be taken up until after Lord Reading's visit.⁹ But we are entitled to some explanation. It looks like a choice between incompetence or ill-faith somewhere as an interpretation. I am quite willing to believe in the former; but I am not willing to be 'led up the path' like this, and then let down without a word of warning or explanation. The French Government (see paragraph two) said they were taking a line which we loyally followed—and then found ourselves alone. If they were going to run out it is elementary fair play that we should have been told. In point of fact no great harm has been done, but we might have been let in for a most invidious position. The past however can take care of itself. The real trouble is that this kind of thing does not make for the confidence that is necessary to collaboration.

Yours ever,

R. VANSITTART

⁷ See No. 531.

⁸ The text in the original was here uncertain: see No. 543, note 4.

⁹ For Lord Reading's conversations in Paris on October 7 and 8 see Volume II of this Series, Nos. 266 and 267.

No. 564

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 8, 9.30 a.m.)

No. 472 *Telegraphic* [F 5500/1391/10]

Manchuria.

PEKING, October 7, 1931, 11.5 a.m.

Koo states that there are two schools of thought (1) Northern who are inclined to take Japanese at their word and communicate to them names of certain high officials designated to watch over the handing back to the Chinese of occupied areas outside the railway zone and (2) Nanking who are strongly opposed to any communication with Japan whatever *until* those areas have been effectively evacuated.

(2) He enquired how suggestion would be viewed, of inviting foreign

Military Attachés to be spectators of such transfer from Japanese to Chinese on the spot. I was not encouraging saying that the phase had clearly not been reached yet.

(3) Regarding political situation he did not seem to contemplate any compromise government for another ten days or so. Delegates of the two parties were to meet in Shanghai.

(4) I asked about the new Minister for Foreign Affairs and he expressed purely personal view that it might be T. V. Soong. One of the essential conditions made by Canton was that he must cease to be Minister of Finance. Eugene Chen was he thought ruled out.

(5) Koo himself had been several times sounded by the President as to taking a post abroad or possibly at Geneva: but had not encouraged this for the moment feeling that he was more useful here at present.

(6) Finally he stated that Chinese delegate at Geneva reported as a fact that Yoshizawa had received summons to return to Tokyo at once for consultation. If this were so he did not see how he could attend Council meeting on October 14.

Repeated to Mr. Ingram.

No. 565

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 7, 9.0 a.m.)

No. 476 Telegraphic [F 5446/1391/10]

PEKING, October 7, 1931, 1.17 p.m.

Following received from Mr. Ingram No. 149, October 3 begins:—

My telegram No. 142.¹

Koo flew back to-day to Peking.

In conversation this afternoon General Wu² said he found people here prepared for the moment to leave the matter in the hands of the League and that public feeling was growing in intensity and unless the League's good offices secured withdrawal of Japanese troops to railway zone in the near future both Government and party might find themselves in very difficult position. In any event an incident inside the wall would mean war. For the moment he did not fear a *rapprochement* with Moscow even with Canton reconciled but if after reconciliation and reconstitution of Government the League failed to secure withdrawal of Japanese troops within reasonable time left wing of party might get control and anything might happen.

In the event of withdrawal he thought next step would be Sino-Japanese negotiations which he hoped would take place outside either China or Japan under the aegis of a neutral power or powers on the analogy of Washington Conference. (This possibility had already been mooted to me informally by

¹ It has not been possible to trace a copy of this telegram in the Foreign Office archives.

² The reference is presumably to General Wu Tieh-cheng.

Acting Minister for Foreign Affairs.) The General confirmed the impression I had already formed that conduct of China's case at Geneva was left entirely to the discretion of Dr. Sze with practically no guidance from Nanking.

No. 566

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 7, 5.0 p.m.)

No. 484 Telegraphic: by wireless [F 5454/1391/10]

PEKING, October 7, 1931

Your telegram No. 303.¹

French Minister has received instructions—presumably drafted before receipt of your telegram No. 271 to Paris²—that it is undesirable to take in (*sic* ? any)³ exceptional steps to obtain information from Manchuria and that he should continue to rely on his *normal* channels there e.g. his Consul.

In the circumstances we agreed that there was nothing to be done regarding despatch of special observers until . . .³ this divergence of view between London and Paris has been cleared up.

Meanwhile he and I both remain of the opinion in view of grave situation undoubtedly developing despatch of such observers with roving commission to see things for themselves just as Americans have done is in fact eminently desirable. His Majesty's Government will then at least know their facts.

Time is short if we are to get anything authentic and I should personally be inclined to send our men forthwith whether French conform or not. And to advise both Chinese and Japanese that we are doing so without necessarily waiting for the consent of either. It is after all a perfectly reasonable and proper step to take.

Repeated to Mission, Tokyo.

¹ No. 560.

² No. 562.

³ The text is here uncertain.

No. 567

Mr. Patteson (Geneva) to the Marquess of Reading
(Received October 7, 5.30 p.m.)

No. 31 Telegraphic [F 5455/1391/10]

GENEVA, October 7, 1931, 5.22 p.m.

Following from Sir E. Drummond for Mr. Cadogan.

Your telegrams Nos. 156,¹ 157,¹ 158,¹ and 160².

Suggest communicating to Mission statement that Japanese representative

¹ Nos. 556, 558, and 562 were repeated by the Foreign Office to Geneva as telegrams Nos. 156, 157 and 158.

² Not printed. This telegram instructed Mr. Patteson to communicate to Sir E. Drummond the information contained in the first paragraph of No. 557.

made to Council on September 30 (page 6 of English provisional minutes)³ on which and on paragraph 9 of Council resolution, action can legitimately be taken by individual Governments.

Bearing this in mind it seems that Japanese Government could hardly object to such action provided representatives report to their own Governments which in turn transmit information urgently to Geneva but in view of American precedent agree desirable to obtain their consent.

Am not transmitting telegram from Military Attaché. Information somewhat obsolete and some of places he mentions seem to have been evacuated already.

Washington promises information from their special representative. Am expressing hope that I may presume suitable to Council members (*sic*).⁴

It may become desirable to postpone Council meeting one week so as to allow of further information being received but postponement might inflame Chinese opinion, in any case cannot advise President⁵ on this point till Saturday.⁶

Have you any views?

Have suggested to Japanese that in order to calm Chinese public opinion they should spontaneously invite individual Powers to send representatives to the spot to inform their Governments of the position and that this should be known publicly. Have pointed out such action would fall within the terms of Japanese statement at Council and Council resolution.

³ See *League of Nations Official Journal*, December 1931, p. 2308.

⁴ For Mr. Stimson's instructions to Mr. Gilbert, United States Consul at Geneva, to give a message in this sense to Sir E. Drummond, and for Sir E. Drummond's conversation of October 6 with Mr. Gilbert see *Foreign Relations of the United States 1931*, vol. iii, pp. 116-17 and 130-2.

⁵ i.e. M. Lerroux, President of the Council of the League of Nations.

⁶ October 10.

No. 568

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 7, 3.0 p.m.)

No. 184 Telegraphic [F 5456/1391/10]

TOKYO, October 7, 1931, 7.38 p.m.

My telegram No. 183.¹

Chinese Minister called this morning and made it clear that Chinese Government did not at present intend to begin negotiations so long as the Japanese troops had not been withdrawn.

I told him that while I did not believe Japanese Government had intention to occupy Mukden etc. for a long time I did not personally believe they would consider it safe to evacuate in the immediate future. Vice-Minister for Foreign Affairs this afternoon confirmed both statements.

¹ Not printed.

Japanese Government were most anxious to evacuate. In reply to question based on press reports, Vice-Minister for Foreign Affairs stated that note was being drafted protesting to Nanking against boycott and interference to Japanese in general.

If approved by Cabinet, note would be despatched at once.

He added that Japanese Consuls at Nanking, Hangchow and two other places had asked for and been granted authority to withdraw at discretion since life was being made unbearable.

He showed me a long list of towns from which Japanese women and children had been evacuated.

As regards Manchuria, recent utterance of General Commander-in-Chief that Japanese Government would have nothing to do with Young Marshal was unauthorised.

Japanese Government were only too anxious to see any stable Chinese Government established in Manchuria.

Press reports despatch of men of war to Yangtze and other parts and recall of second fleet from manœuvres. Vice-Minister for Foreign Affairs could not verify these reports which I will try to check tomorrow.

Asked point blank whether Japanese Government thought there was any danger of Chinese declaring war; Vice-Minister for Foreign Affairs expressed the conviction that there was no such danger.

Apart from other reasons Canton would now have more influence in Government than formerly and Canton based their policy on testament of Sun Yat-sen which laid special stress on good relations with Japan.

Repeated to Peking.

No. 569

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 7, 4.0 p.m.)

No. 185 Telegraphic [F 5485/1391/10]

TOKYO, October 7, 1931, 8.40 p.m.

French Ambassador has not yet received instructions but we agree that there is no possible objection to our Legations at Peking sending observers to Manchuria to report to them and not to League of Nations. We agree further that it is unnecessary to ask permission of Japanese Government who would certainly not object. It is preferable merely to inform Minister for Foreign Affairs verbally that they were being sent.

American observers were sent from Embassy here and are therefore in different position.

As regards counsels of moderation I shall await views of French Government. My own feeling is that they are more needed in China than here but it may be impossible to give them in one place alone. In any case they should be verbal if made here.

Repeated to Peking.

No. 570

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 7, 2.0 p.m.)

No. 186 Telegraphic [F 5447/1391/10]

TOKYO, October 7, 1931, 8.50 p.m.

My immediately preceding telegram.¹

Although I appreciate the gravity of the position in China I am convinced that the worst service we can render to the Chinese is to give them any apparent encouragement to delay entering into direct negotiations with Japanese.

Repeated to Peking.

¹ No. 569.

No. 571

Lord Tyrrell (Paris) to the Marquess of Reading
(Received October 8, 9.0 a.m.)

No. 235 Telegraphic [F 5453/1391/10]

PARIS, October 7, 1931, 9.0 p.m.

Your telegram 271.¹

French Government have received from French Minister at Peking same information as that telegraphed by Lampson. Their representatives at Peking and Tokyo have already urged moderation on the two Governments but opportunity offered by my communication will be taken to instruct them to renew representations.

French Military Attaché and Air Attaché have already visited Manchuria and reported on events; and I gather visit will be renewed or continued as Japanese Government have no objection to presence in Manchuria of normal accredited representatives of the Embassy.

French Government agree that such representatives should continue to report to their Governments. Informal bases of such reports can if necessary be supplied to delegates at Geneva.

French Government seemed to expect Council will have to meet in Geneva on October 14.

Repeated to Peking, Tokyo, Washington, Berlin, Rome, Madrid and Geneva.

¹ No. 562.

No. 572

Note from the Chinese Chargé d'Affaires

[F 5505/1391/10]

CHINESE LEGATION, LONDON, *October 7, 1931*

Your Lordship,

Under instructions received from the Waichiao Pu, Nanking, I have the honour to state that from various sources it has been learned that a movement has been set on foot for the establishment in the three Eastern Provinces of new governments independent of the National Government with the Peace Preservation Committee as their central organisation under Yuan Chin-Kai.¹ Although the full facts are not known, it is the view of the National Government that the movement can only be initiated with the connivance, encouragement of, and even under pressure by, the Japanese military headquarters in Manchuria. The National Government deem it necessary to proclaim to the world that all such illegal organisations originated under the circumstances and before the formal return to China of the occupied territories, will not be recognized by the National Government. The Japanese Government alone will be held responsible for any and all consequences of this illegal movement.

I have, &c.,

W. C. CHEN

¹ A former provincial governor and a Vice-President of the North-Eastern Political Committee. Mr. Yuan Chin-Kai was, on September 24, invited by the Japanese military authorities to form, with eight other Chinese residents, a 'Committee for the Maintenance of Peace and Order'.

No. 573

Record of conversation between Sir E. Drummond and Dr. Sze¹

[F 5592/1391/10]

LEAGUE OF NATIONS, GENEVA, *October 7, 1931*

Dr. Sze came to see me this afternoon, and brought with him three telegrams, two (attached) relating to the situation in Shanghai and Nanking, and the third, a cablegram from Reuters, which was dated Mukden, the 4th October.²

Dr. Sze said that this was the first press telegram which had come out of Mukden. As to the other two he said that he was very much alarmed at the situation, particularly if it was true that Japanese had landed marines in Shanghai.

I said that I was equally concerned as regards the position. It seemed to

¹ This record was communicated to Mr. Cadogan by Sir E. Drummond on October 7, and was received in the Foreign Office on October 12.

² The reference is probably to the report printed as communication No. 51 in *League of Nations Official Journal*, December 1931, p. 2472.

me that now everything depended on whether the Chinese could exercise self-restraint for the next ten days or a fortnight. I did not believe that the Japanese action as regards the sending of ships of war to Shanghai, had any connexion with Manchurian affairs. Indeed, the information which reached me led me to believe that the withdrawal of Japanese troops was proceeding, though somewhat slowly. This was due to the fact that the Japanese had to bring into the railway zone a large number of Japanese and Korean inhabitants for safety. If the Chinese continued to exercise self-control, I felt sure that the ultimate withdrawal would be assured. But it was not likely to be altogether completed by the 15th October.

Dr. Sze asked me whether, when I spoke of 'ultimate withdrawal', I meant a long period.

I said No: I was not thinking in terms of months, but rather of weeks, or even days. I asked Dr. Sze what he wished me to do with the three telegrams in question.

He said to me that as regards Reuter's telegram, he would send it to me officially for communication to the members of the Council, but, as regards the two others he had given me, he would ask me to tell the Japanese privately about them, and urge them very strongly not to disembark marines, as this might lead to a most unfortunate collision. (I said that I would be glad to do this.) He would do his best to calm his people in spite of all the difficulties.

I said that I was very glad to hear this, as I felt sure that what we both wanted was that peace should be preserved.

He then enquired whether I had received a report from Colonel Thornhill.

I said that I had a very short report, but that really it was obsolete, as it was dated the 30th September, and certain places which he mentioned as being in Japanese occupation had since been evacuated so that I did not intend to circulate it to the members of the Council.³

He then enquired what the position was as regards the representatives of Powers in Manchuria.

I replied that all I knew was that two American representatives were in Manchuria. I had received a promise from Washington that their reports or parts thereof would be made available to me, and I had asked that I might be allowed to utilise them for members of the Council. As to the other Powers, some unfortunate misunderstanding had taken place caused, I feared, largely by the action taken by the Chinese Government in addressing an appeal to all the members of the Corps diplomatique to send representatives to Manchuria. However, I hoped that the difficulties which had arisen in this connexion would shortly be overcome, and that we should obtain news from outside sources. I gave him the gist of my telegram to Dr. Rajchman.⁴

He promised to support it by a calming telegram as, in his view, matters had already reached a dangerous stage, and had gone too far. He then asked me whether the Council meeting would be held on the 14th October.

³ Foreign Office telegram No. 161 to Geneva had repeated for Sir E. Drummond's own information paragraphs 2-4 of No. 557.

⁴ See No. 585.

I replied that I could not yet give him an answer, but I hoped to talk over the matter with him again on Saturday.⁵ It might be that it would be wise to postpone the Council for a week.

Dr. Sze said that this would be quite reasonable because of the necessity of obtaining information. But we agreed that while materially this was to be favoured, we had to take into consideration the psychological element and the effect on Chinese public opinion of the fact of the Council being held on the date already fixed.

E. D.

ENCLOSURE 1 IN NO. 573

Telegrams from Ministry for Foreign Affairs to Chinese Delegation

October 7, 1931

The Chinese delegation has to-day received from the Ministry for Foreign Affairs, Nanking, the following telegrams:—

‘1. Contrary to the resolution of the Council adopted on the 30th September, Japanese have despatched four more destroyers to China, which are now anchored off Nantao (Shanghai) near the Shanghai Arsenal. The atmosphere has become tenser, because it is reported that Sasebo Squadron is ready to be despatched and more warships may be sent to China.

‘Nanking, October 6, 1931.’

‘2. The outlook of the situation lately is becoming more and more serious. Japanese aggression as already experienced in Manchuria is liable to be extended at any moment to all points along the Chinese coast and the Yangtze River. In that case, provinces, other than those of Manchuria, would be placed under Japanese military domination. The Chinese Government and people earnestly hope that all the nations of the world, for the sake of peace in the Far East as well as in the whole world, will take most effective measures to prevent an aggression by the Japanese navy on points along the Chinese coast and the Yangtze River.

‘Nanking, October 6, 1931.’

ENCLOSURE 2 IN NO. 573

Telegram from Waichiaopu, October 7, 1931

Situation in Shanghai, Nanking, very tense last forty-eight hours. Reported, but unconfirmed, 150 (?)⁶ Japanese marines landed last night at Pootung, opposite arsenal, and more squadrons, Sasebo Kure, given orders prepare for mobilisation, proceed China. Also reported Japan sending us note demanding suppression anti-Japanese movement, probably threatening grave consequences.—WAICHIAOPU.

⁵ October 10.

⁶ The text is here uncertain.

No. 574

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 8, 9.30 a.m.)

No. 479 Telegraphic [F 5503/1391/10]

PEKING, October 8, 1931, 1.5 p.m.

Following received from Shanghai No. 142 of October 2. Begins:

Following from Lionel Curtis¹ now in Shanghai. Begins:

T. V. Soong sent me urgent message this morning asking me to call. I saw him at Central Bank of China. He said that he believed I was on intimate terms with Lord Lothi(?an)² and he asked if I could arrange through him to convey following message to His Majesty's Government. He desired to warn them that unless Japanese troops in Manchuria were withdrawn in accordance with conditions laid down by League of Nations, Nanking Government, even if re-united with Canton, would be swept out of existence by rising tide of feeling in China and that this would happen automatically if Japanese troops landed south of the wall. Influenced by despair Chinese opinion turning rapidly in favour of alliance with Russia. He wished me to know that offers of Russian alliance had been received by his Government from Moscow. I asked if his Government felt what other Government would succeed it. He replied none whatever except so far as Russian agents and Russian trained Chinese could in the course of time establish some sort of organisation on Soviet lines. His chief anxiety at the moment was that British officials in Manchuria should fully and accurately report to the British Government how far Japanese military authorities were fulfilling League of Nations requirements and particularly that such reports should be instantly forwarded to Geneva. Ends.

Curtis requests favour of transmission of above message to Lord Lothian through Foreign Office.

¹ Mr. Curtis, a Fellow of All Souls College, Oxford, published in 1932 *The Capital Question of China*.

² The text is here uncertain. Lord Lothian was Chancellor of the Duchy of Lancaster.

No. 575

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 8, 9.0 a.m.)

No. 480 Telegraphic [F 5504/1391/10]

PEKING, October 8, 1931, 1.5 p.m.

I read in this¹ an attempt to galvanize us into greater activity *vis-à-vis* events in Manchuria. Danger of some *rapprochement* with Russia, very tem-

¹ There should probably have been a reference to No. 574.

porary, exists and I have already referred to it, see my telegram No. 426:² but it would be quite natural for T. V. Soong and his colleagues to make the most of it. See in this connection the views of Wu reported in Mr. Ingram's telegram No. 149.³

² No. 541.

³ See No. 565.

No. 576

The Marquess of Reading to Lord Tyrrell (Paris)

No. 278 Telegraphic [F 5453/1391/10]

FOREIGN OFFICE, *October 8, 1931, 7.30 p.m.*

Your telegram No. 235.¹

In view of Peking telegram No. 484² and Tokyo telegram No. 185,³ which is [are] being repeated to you, we should be glad to have definite statement from French Government as to whether or not they will send representatives to Manchuria, and whether with or without prior consultation with Japanese Government.⁴

¹ No. 571.

² No. 566.

³ No. 569.

⁴ Lord Tyrrell replied as follows in his telegram No. 236 of October 9: 'There seems to be a misunderstanding in Peking which has probably been resolved by fresh instructions sent to French Minister there after my interview of October 7. French Minister has been authorised to send to Manchuria any member of his ordinary staff including Consul and Military Attaché. In these circumstances French Government do not consider necessary prior consultation with Japanese Government who will merely be informed by French Ambassador at Tokyo of action taken.'

No. 577

The Marquess of Reading to Sir M. Lampson (Peking)

No. 308 Telegraphic [F 5397/1391/10]

FOREIGN OFFICE, *October 8, 1931, 7.30 p.m.*

Manchuria.

Points on which it will be useful to have information as and when procurable are security or otherwise of Japanese lives and property, occupation or evacuation of places outside railway zone, release or detention of prisoners, restoration or reverse of goods and property seized or occupied outside railway zone.

No. 578

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 8, 1.40 p.m.)

No. 497 Telegraphic [F 5494/1391/10]

PEKING, October 8, 1931, 7.33 p.m.

My telegram No. 484.¹

As time is short and as it seems essential that our representative at Geneva should be fully apprized of actual situation by October 14, and have means of securing immediate information on any particular point, I am sending Military Attaché and Mr. Stirling² accompanied by assistants at once to Manchuria. They leave morning of October 9. I shall inform Secretary in charge of Japanese Legation here but see no necessity to make any formal communication to either Chinese or Japanese Governments on . . .³ see Tokyo telegram No. 185.⁴ Regions to be visited being in China it is a perfectly normal thing to send members of my staff to report on conditions there.

At present the safety of lives and property of Japanese nationals is by no means effectively assured and by October 5 Japanese claimed to have the names of 105 Koreans killed by roving gangs of fugitive Chinese soldiers.⁵

Repeated to Mission, Tokyo, Mukden, Newchwang and Harbin.

¹ No. 566.

² Third Secretary in H.M. Legation at Peking.

³ The text is here uncertain.

⁴ No. 569.

⁵ Sir M. Lampson commented on this paragraph in his telegram No. 496 of October 8: 'This indicates line which Japanese will probably and quite naturally take if they are accused of failing to withdraw troops promptly.'

No. 579

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 8, 8.0 p.m.)

No. 492 Telegraphic: by wireless [F 5525/1391/10]

PEKING, October 8, 1931

United States Minister on instructions of State Department went to Nanking on Monday,¹ idea being to exercise moderating influence on any bellicose tendencies there. In discussing this I said it was entirely a matter where our presence was at this juncture most useful and that to my mind was a very moot question.

Whilst there is obviously something in being in Nanking I am not sure one is not more useful here in the north at present. Certainly one is more in touch with Manchurian events and with direct sources of information, e.g. Young

¹ October 5.

Marshal and Donald. Nanking on the other hand is in mental state of political flux and beyond Soong there would be few people of authority to deal with.

I would welcome your instructions.

French Minister shares my view.

Repeated to Mission.

No. 580

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 8, 2.20 p.m.)

No. 498 Telegraphic [F 5495/1391/10]

PEKING, October 8, 1931, 8.10 p.m.

My telegram No. 497.¹

Since despatch of my telegram No. 497 Chinchow (three hours north of Shanhaikuan) on Peking-Mukden railway has been bombed and railway damaged.² All means of getting to Mukden is thus for the moment cut off as October 13 earliest sailing to Dairen from Tientsin.

2. Our party will not leave till tomorrow night when we can see whether line is reopened.

3. French Minister informed.³

Repeated to Mission. Tokyo.

¹ No. 578.

² This information was also communicated to Sir E. Drummond by the Chinese Government: see *League of Nations Official Journal*, December 1931, p. 2474.

³ Mr. Charles minuted on October 9 that Chinchow 'is an important station on the Peking-Mukden Rly., where the Japanese have no business at all. Besides British interests are heavily involved—the balance unredeemed of the British loan (1898) amounts to £862,500.'

No. 581

Sir M. Lampson (Peking) to Admiral Sir H. Kelly¹

No. 72² Telegraphic [F 5496/1391/10]

PEKING, October 8, 1931

Situation is becoming definitely more menacing and I suggest you stand by for possible developments anywhere any time.

Feeling is running fever high and this organised bombing of Chinchow today will undoubtedly increase it.

Authorities hitherto have succeeded in controlling the situation but it is only a matter of time till there is an explosion.

¹ Commander-in-Chief, China Station.

² This telegram was addressed to the Commander-in-Chief as No. 72, and was repeated as No. 500 to the Foreign Office, where it was received on October 8 at 5.0 p.m.

There are increasingly frequent reports of impending Japanese action on Yangtze.

United States Minister especially nervous of this.

Big Chinese concentration is reported north of Nanking at Chengchow—object unknown.

Repeated to Mission, Foreign Office, Hong Kong for General Officer Commanding.

No. 582

*Letter from Sir E. Drummond (Geneva) to Mr. Cadogan
(Received October 12)*

[F 5594/1391/10]

LEAGUE OF NATIONS, GENEVA, *October 8, 1931*

Very many thanks for sending me the further extract from the Military Attaché's report.¹ I wired to you that I did not think that it was worth while circulating the positive information contained in your telegram No. 160² to the members of the Council; but I think that ultimately it may be wise to give it circulation, i.e., when, as I hope, I get further reports which will, I believe, show that some of the places mentioned by him as being in Japanese occupation on the 30th September have now been evacuated. This would show a certain progress.

I do not know if I ever told you that the Japanese representative at the Council was prepared, after consultation with Tokyo, to give an assurance that evacuation was entirely independent of negotiations, but that Sze told him that he did not attach importance to such a declaration, and, therefore, the Japanese did not make it. This, and the Military Attaché's telegram, seem clearly to show that Japanese civil and military policy are opposed. Havas telegrams to-day indicate that this is more clearly the case than one supposed up to now.

In this connexion, Sugimura³ told me that the policy of Baron Shidehara is to allow a considerable period to elapse after evacuation, so as to allow the passions which have been aroused to die down, and it is only after this that he proposes to have discussions as to the settlement of outstanding problems between the two countries, both in Manchuria and elsewhere. At the present moment the danger seems to be transferred from Manchuria to Shanghai and Nanking; and Sze informed me yesterday that his Government had the greatest difficulty in controlling the Communists, who are working up a violent Nationalist agitation in order to sweep away the present Government. Obviously, the Communists would be delighted to see war between China and Japan, as they think that they could only reap advantage therefrom in both countries.

¹ See No. 573, note 3.

² See No. 567, note 2.

³ Mr. Sugimura, a Japanese subject, was the Under-Secretary-General in charge of the political section of the League of Nations secretariat.

Sugimura says that the Japanese find that Chang Hsueh-liang and T. V. Soong are quite moderate, but that Chang Kai-shek is embarking on an anti-Japanese policy in order to maintain his present predominance. I doubt whether this is completely accurate, but you may like to know the Japanese views.

I have impressed on Rajchman, who is very close to T. V. Soong, the necessity of further self-restraint by the Chinese, and I have equally urged Sugimura to telegraph to Tokyo to do all that is possible to prevent their landing further marines in Shanghai. Apparently, Saturday⁴ is likely to be a danger day, since it is a public holiday in order to celebrate the Chinese Republic.

One word about information. Of course, it is quite clear that the Military Attachés and any other people sent up should communicate with their Governments; but I very sincerely hope that anything that can properly go round to the members of the Council will be sent to me as soon as possible for circulation. The fact that such impartial information is being sent round would certainly have a calming effect on Chinese opinion—and it is this at the present moment from which one has most to fear. I hope the French will proceed on these lines.

As to the meeting of the Council, I am still very puzzled. I fear that by Thursday next we shall not have really very much more news. At the same time, it is probably essential to give the idea that the Council is following the whole question very seriously; and even if the situation is better by then, I believe that it may be wiser to hold the Council meeting on the 15th in order to take note of what has happened.

On the other hand, it may be possible to adjourn it for one or two days; but I am a little doubtful as to the wisdom of this, unless such a postponement were made to suit the personal convenience of some of the members. As it is really a question of the preservation of peace, I feel very strongly that it is of the greatest importance that the Foreign Ministers should come to the meeting because of the psychological effect that this would produce. I know that it might be a great bore for some of them; but their coming might just make the whole difference. I am certain that Briand would come if the Foreign Secretary does the same; but if one stops away, it may be difficult to persuade any of the others to attend. As you probably know, I had at one time thought that we might have had the Council meeting at Paris, but I found such violent opposition from the Germans and Italians, that the idea had to be given up, and Geneva is actually named in the Council resolution. I hope, however, to wire more on the Council meeting question on Saturday.⁵

Yours ever,

ERIC DRUMMOND.

P.S.—Since writing this, I have had another talk with Sugimura, and have

⁴ October 10.

⁵ See the telegram of October 9 from M. Lerroux to the members of the Council of the League of Nations convening a meeting for October 13, printed in *League of Nations Official Journal*, December 1931, pp. 2483-4.

begged him to explain to his people that it is extremely difficult to urge the Chinese to exercise self-restraint and moderation if, at the same time, the Japanese troops in Manchuria are reoccupying places or extending their operations.

Sugimura said that he quite agreed, and that, until evacuation was fairly well under weigh, the Chinese would always have a pretext for the anti-Japanese movement. He promised to pass on this talk to Paris, and thence to Tokyo. He told me that the anti-Japanese movement is becoming very serious; but that it was confined mainly to the vicinity of Shanghai and Nanking. The Japanese Government believed that Ch[i]ang Kai-shek was at the bottom of this, and they thought that he was using anti-Japanese feeling to endeavour to consolidate his own power by coming to an arrangement with Canton against 'the common enemy'.

E. D.

No. 583

Sir M. Lampson (Peking) to Mr. Ingram (Nanking)

No. 255¹ Telegraphic [F 5527/1391/10]

PEKING, October 9, 1931

Foreign Office telegram[s] No[s]. 302² and 303³ and my telegram No. 484 to Foreign Office.⁴

In view of possibility of serious developments in this country you should at once see Soong and such other members of Chinese Government, including Acting Minister for Foreign Affairs as you may at your discretion consider suitable to approach and in the name of His Majesty's Government counsel moderation in accordance with Foreign Office instructions, adding as from me that time is far too critical to be carried away by impulse, however natural indignation may be. Any precipitate act would in my view be fatal and most unwise and those responsible for it would assume gravest responsibility *vis-à-vis* their country and its ultimate interests. You may if necessary add verbally that Chinese Government's message⁵ is now under consideration of His Majesty's Government.

Repeated to Foreign Office and Tokyo.

¹ This telegram was addressed to Nanking as No. 255 and was repeated as No. 485 to the Foreign Office, where it was received on October 9 at 9.30 a.m.

² No. 562 was repeated to Peking as Foreign Office telegram No. 302.

³ No. 560.

⁴ No. 566.

⁵ See No. 556.

No. 584

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 9, 9.0 a.m.)

No. 494 Telegraphic [F 5529/1391/10]

PEKING, October 9, 1931, 12.10 p.m.

Following received from Mission, October 6.

Begins:—

My telegram No. 144.¹

Vice-Minister for Foreign Affairs told me last night that telegraphic instructions had been sent on October 4 to Chinese Minister in Tokyo to inform the Japanese Government that General Chang Tso-chiang [Tso-hsiang] and Civil Governor of Hopei province had been appointed by the National Government to negotiate with local Japanese authorities in Manchuria, measures for resumption by the Chinese of responsibility for maintenance of law and order and protection of foreign lives and property outside the railway zone.²

¹ No. 556.

² For the Chinese Minister in Tokyo's communication to the Japanese Government to this effect on October 6, and for his further note of October 9 see *League of Nations Official Journal*, December 1931, p. 2474.

No. 585

Mr. Patteson (Geneva) to the Marquess of Reading
(Received October 9, 7.15 p.m.)

No. 33 Telegraphic [F 5551/1391/10]

GENEVA, October 9, 1931, 6.35 p.m.

Following from Sir E. Drummond for Mr. Cadogan.

I sent the following message to Dr. Rajchman on October 7.

'Strictly private and confidential: in my opinion effectiveness of Council action to obtain full execution of resolution chiefly depends on capacity of Chinese Government to control anti-Japanese movement and observe moderation. Realize the great difficulties but beg you to urge Chinese Government to do all in their power to above end. Even if doubtful whether absolute withdrawal can take place by October 14 progress certainly being made towards full withdrawal. Necessary to help Japanese Government in its struggle with military elements. Message ends.'

His reply received today is as follows:—

'I have carried out instructions contained in your telegram No. 60, but am very anxious to emphasise that the situation is extraordinarily grave.

'1. Mr. Donald, Australian adviser to Marshal Chang Hsueh-liang, reports

that twelve Japanese aeroplanes bombarded Chinchowfu yesterday without slightest provocation. Chinchowfu where Marshal Chang Hsueh-liang has established new provincial capital is far outside South Manchurian Railway zone. British manager of Peking-Mukden line witnessed attack and among those officially reported as killed is a German professor of Chinchowfu University where provincial government offices are temporarily lodged. Town has now been kept in a state of defence and is strongly held by reliable troops of the Marshal. Council will be asked by Chinese Government to take urgent steps to preserve peace and will be invited to send immediately a League of Nations Commission to Chinchowfu. All facilities will be given to this Commission for investigation and report to the Council meeting on October 14 or earlier should the Council so decide. It is most important to comply with this request or faith in League will vanish.

'2. Government could not survive a single day if it attempted to reprove mass movements but it is exerting itself to uttermost to exercise control over all such movements. Moderation it is displaying is truly exemplary and beyond anything known at Geneva with a Government in smaller controversies that have come before the Council.

'3. It is vitally important to realize that this is a life and death struggle for Government which although beset on all sides by appalling obstacles is doing everything it can to maintain friendly relations with the West, from which it is receiving constant counsels of perfection but small evidence of understanding. As a result there are suspicions that the West is indifferent to its fate which nevertheless is identical with maintenance of present political status in the Far East. It is considered significant that no Ministers of any Powers have left Peking for Nanking.

'4. For this reason, although there is every desire for, and understanding with, reasonable elements¹ of Japan, appeals for help for Japanese Government are inappropriate particularly in absence of any evidence of action by Japanese Government to assist Chinese Government to maintain itself or of any pressure by Powers at Tokyo to this end. Any indication of such pressure would be most useful to mention.

'5. What evidence is there that progress has been made towards complete withdrawal, in view of fact that Japanese Government have left unanswered the Chinese Note asking that arrangements should be made for taking over by Chinese authorities of responsibility for safety of Japanese lives and property in places outside the railway zone as they are evacuated?

'6. It is essential that decisions of Council when it meets, particularly after securing co-operation of United States, should take account of vital necessity to help Chinese Government in its struggle against chaos and should not throw the responsibility upon latter when its effective control of popular temper depends upon effectiveness of the Council's action.

'7. Washington is being informed of fact that Council is being asked to appoint members of a Commission to proceed to Chinchowfu.'

¹ The preceding passage should probably read: '... desire for an understanding with reasonable elements ...'.

I am sending copies to Paris, Berlin, Rome and informing Washington. While Rajchman's views are pro-Chinese the statements in paragraphs 1 and 5 of his report are ominous.

No. 586

The Marquess of Reading to Sir M. Lampson (Peking)

No. 310 Telegraphic [F 5502/1391/10]

FOREIGN OFFICE, *October 9, 1931, 7.0 p.m.*

I am anxious lest Chinese popular feeling should lead to attacks on Japanese persons and property and thus to Japanese measures of retaliation, which would greatly aggravate situation. You should lose no opportunity of urging the necessity of moderation, both in Peking and Nanking, and you should press on the Chinese Government the desirability of their reaching an understanding with the Japanese without making evacuation of points outside railway zone a preliminary condition.

Repeated to Tokyo.¹

¹ This telegram was also repeated to Washington, Berlin, Paris, Rome, and Madrid on October 10.

No. 587

The Marquess of Reading to Sir F. Lindley (Tokyo)

No. 127 Telegraphic [F 5502/1391/10]

FOREIGN OFFICE, *October 9, 1931, 7.30 p.m.*

I am greatly disturbed by news of aerial bombardment of Chinchow which it is difficult to reconcile with Japanese assurance to Council of the League that they would do nothing to aggravate the situation.¹ Press reports of dropping of political manifestos give one reason to fear moreover that it was inspired by desire to dictate or interfere with form of Chinese administration in Manchuria. Any such action could only render settlement by negotiation more difficult. Please urge most strongly on Japanese Government necessity of moderation in sense of their declaration to the Council referred to above. You should also remind them that there is a large British financial interest in the Peking-Mukden railway.

Repeated to Peking² No. 311.

¹ See No. 526, note 4.

² This telegram was also repeated to Washington, Berlin, Paris, Rome, and Madrid on October 10.

No. 588

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 9, 2.30 p.m.)

No. 512 Telegraphic [F 5533/1391/10]

PEKING, October 9, 1931, 7.42 p.m.

Following for War Office from Military Attaché.

My United States colleague informs me confidentially as follows.

Begins.

Japanese General Staff in Manchuria informed foreign Military Attachés yesterday that it could not now consider a withdrawal of troops in Manchuria due to depredations of Chinese soldiery but must take further positive action.

United States Consul-General at Nanking reports he has been warned personally and informally by a prominent Japanese, whose name he cannot disclose, that Nanking might be attacked so that he can take care of his Nationals. Ends.

Manchurian staff in conversation last night confirmed above statement; Young Marshal himself being very pessimistic as to possibilities of Japanese Naval action against Nanking.

I gather without the fact being actually stated that Chinese Government are making preparations to transfer the capital to Kaifeng.

Collection of all available rolling stock at Hankou and Pengpu confirms above impression.

Repeated to Mission, Commander-in-Chief, Hong Kong, and for General Officer Commanding, Mukden, Shanghai, Hankow, Canton and Tokyo.

No. 589

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 9, 1.50 p.m.)

No. 190 Telegraphic [F 5549/1391/10]

TOKYO, October 9, 1931, 7.55 p.m.

My immediately preceding telegram.¹

General impression of long conversation was not satisfactory. I doubt whether Minister for Foreign Affairs really knows what to do next and it is impossible to know how far policy is dominated by the military outside Manchuria. It certainly is inside.

I am inclined to think that Japanese opinion both inside and outside the Cabinet is hardening under resentment against anti-Japanese movement in

¹ No. 590. These telegrams were despatched out of order.

China and that little progress will be made so long as boycott etc., continues.

Two Japanese men-of-war have left for Shanghai with landing parties and Japanese fleet is standing by.

Repeated to Peking.

No. 590

Sir F. Lindley (Tokyo) to the Marquess of Reading

(Received October 9, 4.0 p.m.)

No. 189 Telegraphic [F 5538/1391/10]

TOKYO, October 9, 1931, 8.15 p.m.

My immediately preceding telegram.¹

I informed Minister for Foreign Affairs that speaking without instructions I was impressed with the gravity of bombing of Chinchow. Japanese Government had given assurance that they would do nothing to aggravate the situation. This was most serious aggravation and could not fail to make the worst impression at Geneva and in America. Moreover orders had been given to military not to meddle in Chinese politics, yet aeroplane had apparently dropped pamphlets saying that Japan would have nothing to do with Government of Young Marshal. My colleagues and I were wondering whether he, Honjo,² or the Cabinet governed Japan.

Minister for Foreign Affairs replied that aeroplane had been sent out to reconnoitre reported concentration of troops and been fired on. They had then dropped bombs on barracks and troops.

I replied that it was natural that aeroplane had been fired on in country full of disbanded soldiers and this was no justification for dropping bombs. If purely military considerations were to prevail it was hopeless to expect settlement by diplomacy.

As regards (? military)³ and politics Minister for Foreign Affairs replied that Japanese Cabinet and not he Honjo decided who was to be recognised.

I then asked Minister for Foreign Affairs whether he had received offer reported in Sir M. Lampson's telegram No. 503.⁴ He replied that Chinese Minister had made offer yesterday. Japanese Government felt that it was too

¹ Not printed. This telegram of October 9 reported the publication that morning of the Japanese note of the same date to the Chinese Government regarding anti-Japanese agitation in China, which is printed in *League of Nations Official Journal*, December 1931, p. 2482. Sir F. Lindley commented: 'This note and still more the bombing of Chinchow has produced a very serious situation and I have asked Minister for Foreign Affairs to receive me this afternoon.' A copy of the Japanese note was communicated the same day to the Foreign Office by Mr. Matsudaira.

² It is possible that this phrase should read: '... whether General Honjo ...' (see also below). General Honjo was Japanese Commander-in-Chief in Manchuria.

³ The text is here uncertain.

⁴ This reference appears to be incorrect. Peking telegram No. 503 (not printed) reported on the activities of Japanese troops at Newchwang. It is probable that the reference should be to the Chinese note of October 6: see No. 584, note 2.

dangerous to negotiate with General Chang Tso-hsiang who had commanded troops in Kirin still numbering 40 to 50,000.⁵ In long argument I failed to move the Minister for Foreign Affairs who said that on the night of original incident the Chinese General commanding troops at Changchun had assured Japanese Consul at Mukden that there would be no resistance. None the less Chinese had attacked at Changchun and inflicted many casualties on Japanese. No confidence could be placed in the General.

Minister for Foreign Affairs then informed me Japanese Government thought first thing to be done was to calm popular passions in both countries. He had proposed that negotiations should be begun at once with men of standing for settling the questions of principle among which I gather was the cessation of boycott. When pressed he was not very clear but this seems a return to proposal mentioned in my telegram No. 171.⁶

I doubted whether popular passions would be cooled by such negotiations and pointed out that Chinese would reply withdrawal of Japanese was the best method at any rate as regards China.

We then discussed necessity of a government in Manchuria which could guarantee order and I told Minister for Foreign Affairs that my personal opinion was that Japanese Government would be lucky to have Young Marshal back.

Before leaving I mentioned to Minister for Foreign Affairs that Military Attaché was again going to Manchuria from Peking with member of Legation staff.

Repeated to Peking.

⁵ See the Japanese Government's note of October 9 in reply to the Chinese Government's communication (see note 4 above), printed in *League of Nations Official Journal*, December 1931, p. 2483.

⁶ No. 537.

No. 591

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 9, 6.50 p.m.)

No. 513 Telegraphic [F 5540/1391/10]

PEKING, October 9, 1931, 11.25 p.m.

Following received from Consul-General Nanking telegram No. 76 of October 9. Begins:—

Addressed to Peking telegram No. 77 [*sic*], repeated to Shanghai, Commander-in-Chief, and Rear Admiral Yangtze.

There is noticeable growth of apprehension here that if the Chinese regard forthcoming decisions of League of Nations as adverse to them popular agitation might be directed against foreigners generally. There is also apprehension lest resignation of present government should involve interval

before fresh government could take over during which chaos might reign and foreign lives and property be endangered.

Possibility of evacuation of British and American residents is in mind and preliminaries of organisation prepared.

There is already a steady flow of artillery and transport northward out of the city and it is thought that after the review on October 10 there will be comparatively few troops left here. There has been a run on silver reserves in the local banks and I am informed that the civilian population is beginning to pack. Exodus of rich families has begun. This may largely be due to widespread rumours that Japanese intend to bombard Nanking. For attitude of Japanese Consulate, refer to Mr. Ingram's despatch No. 69.¹ There is no actual panic but it would not take much to create one.

¹ Not printed. Mr. Ingram reported that the Japanese Consul had called on him on October 5, and had told him that though he did not expect trouble in Nanking, he had evacuated Japanese women and children, and was prepared to evacuate the Japanese Consulate rather than land marines for its protection. In the light of the attack on Dr. Wang, he wondered what might happen to an unpopular foreigner.

No. 592

Record by Mr. Orde of a conversation with Dr. Chen

[F 5501/1391/10]

FOREIGN OFFICE, October 9, 1931

The Chinese Chargé d'Affaires called this morning to communicate the attached memorandum.

He also conveyed what he said was an official request from the Chinese Government that the British Military Attaché at Peking should be sent to report on the situation in Manchuria and an assurance that whatever he might report would be welcomed by the Chinese Government.

I told Dr. Chen that we had received a request in general terms from the Chinese Government for the despatch of observers, and that we had just heard that H.M. Minister in Peking was proposing to send the Military Attaché on a further visit but that the interruption of railway communication was presenting a difficulty.

In answer to Dr. Chen's observation that the situation was becoming worse, I expressed the hope that the Chinese Government would be able to prevent incidents, which were likely to provoke retaliation by the Japanese. He assured me that the Chinese Government were doing their best to prevent any explosion of popular feeling.

C. W. ORDE

ANNEX TO No. 592

Aide-Mémoire

Japanese Ag[g]ression in China

CHINESE LEGATION, LONDON, *October 8, 1931*

A Japanese naval attack on an extensive scale on towns along the Chinese coast and Yangtze River is imminent. More than fifty warships have been mobilized, many of which have already reached Shanghai ready to land troops at any moment to repeat their outrageous acts in Manchuria. The Chinese Government feel constrained to call the serious attention of His Majesty's Government, as one of the Signatory Powers of the Kellog[g] Pact and as a Member State of the League of Nations, to the grave situation created by this act on the part of Japan in complete disregard to the resolution of the Council of the League of Nations adopted on the 30th of September last enjoining both parties to refrain from taking any measure likely to aggravate the situation and contrary to the undertaking given by the Japanese representative to the Council in regard to the resolution.

The Chinese Government trust that the Signatory Powers of Kellog[g] Pact and members of the League of Nations will not stand aloof to see the Pact and the Covenant of the League of Nations violated with immunity.

No. 593

Letter from Mr. Ramsay MacDonald to the Marquess of Reading

[*Confidential/General/348*]

LONDON, *October 9, 1931*

My dear Reading,

I have had from very private but most reliable sources some disquieting news from Geneva, and a very urgent request that you yourself should make arrangements to attend the Council Meeting on the 14th instant. It may even be summoned sooner. This is a quotation from my correspondent: '*It is vitally important that Lord Reading should attend.*' Briand and Grandi¹ will attend in any case. We ought to be in a position at the Council to take a leading part on a well thought out policy. This is most urgent.

Yours very sincerely,

J. RAMSAY MACDONALD

¹ Italian Minister for Foreign Affairs.

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 10, 9.0 a.m.)

No. 511 Telegraphic [F 5571/1391/10]

PEKING, October 10, 1931, 10.10 a.m.

Following received from Mr. Ingram No. 159, October 6. Begins:—

My telegram No. 152.¹

Mr. W. W. Yen² having been requested by the President to remain a few days longer in Nanking to help the Waichiaopu with his experience and advice has deferred his departure for the North and is participating in daily meetings of Foreign Affairs Committee.

He came to see me this afternoon to enter a plea on behalf of the Chinese Government for Great Britain's support at Geneva. He argued that it was to Great Britain's interest to maintain the prestige of the League for which Sino-Japanese dispute was a vital test. Unless the League Council took a firm line on October 14, should Japanese not have withdrawn to the railway zone by then, it would probably mean the end of the present Government here which could only be replaced by one of (to put it mildly) (? Bolshevistic)³ tendencies if complete chaos did not actually supervene. This could only react unfavourable [*sic*] on British interests in China. To allow Japan to get away with things in Manchuria meant a victory for militarism and death for disarmament neither of which eventualities he imagined could be agreeable to His Majesty's Government. China had much appreciated Lord Cecil's language at Geneva but could not understand why Council had abandoned original proposal for a neutral enquiry and could only assume American pressure had been brought to bear on Council in some form or other. He represented existing situation as one of the utmost seriousness for China for the peace of east and future of the League. It was essential that Great Britain should realise what was at stake.

I told Mr. Yen that I knew nothing of what has passed at Geneva beyond what I had seen in the press. But speaking personally I felt sure of one thing and that was that Great Britain's attitude towards the crisis was not and would not be guided by self interest so far as prospects of British trade in China might or might not be affected but by intrinsic merits of the case, by facts that so far they could reliably establish, and by general principles governing international morals. He must however remember that I was only a sort of post office for you and that if I expressed opinions such as foregoing they were my own unless I acted under instructions which in present instance was not the case.

President had at first suggested Mr. Yen should proceed to Peking to lay

¹ It has not been possible to trace a copy of this telegram in Foreign Office archives.

² Chinese Minister designate to the United States.

³ The text is here uncertain. This word was suggested in the Foreign Office.

considerations advanced in second paragraph before you but realising that time was so short before crucial date it had been thought better to convey them through me and I undertook to pass them on to you at once.

No. 595

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 10, 9.30 a.m.)

No. 191 Telegraphic [F 5554/1391/10]

TOKYO, October 10, 1931, 11.35 a.m.

My immediately preceding telegram.¹

Although Japanese Government did not, I believe, approve bombing, their policy, as far as I can judge, is to tighten the screw until Chinese meet them as regards Manchuria and the boycott. Having burned their boats they intend to see matter through and it would not surprise me, though I have nothing to go on, if they demanded guarantees as regards unilateral denunciation of treaties.

Repeated to Peking.

¹ No. 589.

No. 596

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 10, 9.0 a.m.)

No. 507 Telegraphic [F 5569/1391/10]

PEKING, October 10, 1931, 12.30 p.m.

Your telegram No. 271 to Paris¹ and my telegram No. 255 to Nanking.²

I thought it desirable to convey your counsels of moderation to the Young Marshal also.

2. The following in [*sic* ? is] his reply.

Everyone can see he has exercised moderation and control but since the Japanese are provoking China beyond endurance and the people are being naturally driven to frenzy and may take reprisals he would like to know what the British Government would counsel in the face of such acts as those committed during the past week or two and on October 8 at Chinchow where the city [was] bombed and innocent people killed.

3. I confess I do not know the answer, or profess to understand the last paragraph of Tokyo telegram No. 48,³ suggesting that moderation is more needed here than in Japan. It is like counselling moderation to the hare with the hounds already close on his heels.

Repeated to Mr. Ingram and Tokyo.

¹ No. 562.

² No. 583.

³ The reference is presumably to the repetition to Peking of No. 569.

No. 597

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 10, 9.0 a.m.)

No. 488 Telegraphic [F 5552/1391/10]

PEKING, October 10, 1931, 12.35 p.m.

Following received from Mr. Ingram No. 161 of October 6, begins.

Reuter's correspondent here volunteered the following information this morning in confidence.

Chen¹ will take over garrison command of Shanghai and Nanking with his old troops two brigades under Generals Chiang Kuang[-nai] and Tsai Ting-kai. All other national troops including national guard and gendarmerie will gradually move north into Manchuria. He confirmed reports of big military concentrations at Pengpu and Hsuehowfu of which Consul-General had already heard.

If China does not obtain satisfaction on October 14, nationalist troops will be used as spearhead in Manchuria since President had promised Young Marshal help of troops of Nanking in the next conflict to make up for their absence during conflict with Russia in 1929. Fear of Japanese aggression in Greater Shanghai or Yangtze Valley is widespread.

If it occurs or were produced by an incident, public opinion would demand retaliation and war. As evidence of genuineness of this fear, archives of Ministry of Finance and Ministry for Foreign Affairs have been moved to Shanghai and Air Force has been moved from inside to outside the city.

I have had no time to check up on any of above but you know degree of reliability to attach to this source of information.²

¹ General Chen Ming-chu, formerly head of the Kwangtung Provincial Government, was appointed garrison commander for the Shanghai and Nanking areas in November 1931.

² Sir M. Lampson commented as follows on this information in his telegram No. 489 of October 8: 'Reuter's agent at Nanking is a Chinese who is in closest touch with Waichiaopu and his information must be taken with due reserve on this account. It strikes me that the Chinese are trying to impress us as much as possible with the critical nature of the internal situation in order to frighten us into saving them from Japan. Though admittedly internal situation is very threatening and is likely to remain so if League action fails.'

No. 598

The Marquess of Reading to Sir M. Lampson (Peking)

No. 312 Telegraphic [F 5525/1391/10]

FOREIGN OFFICE, October 10, 1931, 2.30 p.m.

Your telegram No. 492.¹

I appreciate your difficulty in reaching a decision, but I feel that you are in a better position to judge than I am. I must, therefore, leave it to you, to

¹ No. 579.

act as you think best, bearing in mind that the essential to which everything else should be if possible subordinated, is to be in the best position to urge moderation as strongly as possible on the Chinese Government and induce them to negotiate with the Japanese.²

² Sir M. Lampson replied in his telegram No. 524 of October 11: 'I remain in Peking which more than ever seems the most useful place to be.'

No. 599

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 10, 5.30 p.m.)

No. 520 Telegraphic: by wireless [F 5574/1391/10]

PEKING, October 10, 1931

Your telegram No. 310.¹

As regards counselling moderation I have already anticipated your instructions and counselled it both here and in Nanking; see my telegram No. 507 to you² and No. 255 to Mission.³

2. As to advising Chinese to reach understanding without making evacuation point outside railway a conditional [*sic*] precedent I most earnestly beg your reconsideration. For us to give such advice (1) would be a distinct taking of sides which hitherto we have been most careful to avoid; and (2) it is my conviction that any Chinese Government which followed such advice (a) would at once be hurried from office with public execration and (b) lives of its individual members would be worth little. For us to have placed ourselves in position of having tendered such advice seems to me utterly unwise. I shall accordingly suspend action pending further instructions.

Repeated to Mission and Tokyo.

¹ No. 586.

² No. 596.

³ No. 583.

No. 600

Mr. Osborne (Washington) to the Marquess of Reading
(Received October 11, 9.0 a.m.)

No. 633 Telegraphic [F 5560/1391/10]

WASHINGTON, October 11,¹ 1931, 7.11 p.m.

Your telegram No. 717.²

I informed the State Department this afternoon. They had today spoken

¹ This date is presumably in error for October 10.

² Not printed. This telegram of October 10, sent also to Berlin, Paris, Rome, and Madrid, instructed H.M. Representatives to inform the Governments to which they were accredited of Nos. 586 and 587, and to add that a party of observers from H.M. Legation at Peking was leaving for Manchuria on October 9.

to the Japanese and Chinese representatives here and had also sent instructions to their own representatives in Tokyo and Peking in similar general sense.³

³ For further action by Mr. Stimson see *Foreign Relations of the United States: Japan 1931-1941*, vol. i, pp. 17-18, for his communication to Sir E. Drummond, which is summarized in No. 692.

No. 601

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 10, 2.30 p.m.)

No. 193 Telegraphic [F 5556/1391/10]

TOKYO, October 10, 1931, 8.15 p.m.

My immediately preceding telegram.¹

I gained the distinct impression that Minister for Foreign Affairs expected Chiang Kai-shek to be eliminated and Canton [to] come out on top as the result of the crisis and that this would be far from convenient at any rate.²

Repeated to Peking.

¹ No. 602. These telegrams were despatched out of order.

² This passage was later amended to read: '... far from unwelcome'.

No. 602

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 10, 5.20 p.m.)

No. 192 Telegraphic [F 5555/1391/10]

TOKYO, October 10, 1931, 8.30 p.m.

Your telegram No. 127.¹

I informed Minister for Foreign Affairs this afternoon that I had now been instructed to repeat almost exact language I had used yesterday.² There were two most important aspects of the question.

First concerned the League of Nations. The Japanese Government had promised to do nothing to aggravate the situation. Bombing was a breach of this promise. Up to that incident I had personally considered the Japanese Government had from a broad point of view a good case. This had been gravely damaged by incident and would be ruined if there was another.

Second was Chinese aspect. Reports show[ed] that there was a real danger of complete collapse of authority in China if the situation were not eased. Such a collapse would endanger foreign lives and interests and would not suit the Japanese either.

¹ No. 587.

² See No. 590.

Minister for Foreign Affairs after reiterating account of bombing contained in my telegram No. 189³ added he had since learned that Japanese military authorities had sure information that the Chinese headquarter[s] at Chinchow were trying to re-organise their forces in Kirin and Chientao with the object of attacking Japan. Bombing was a necessary precaution and reprisal for shots fired at aeroplanes. Only points of military importance had been aimed at.

As regards China, Minister for Foreign Affairs did not believe in breakdown of authority though it was possible that as the result of negotiations now proceeding Canton would be the dominant factor. This was a matter of indifference to the Japanese Government.

I then mentioned British interests in Peking and Mukden officially⁴ and damage done at Chinchow. Minister for Foreign Affairs replied that the Japanese Government knew of the interests and that strict orders had been given not to damage the lines in any way. Bombs were dropped from a great height on account of firing and must have gone [a]stray.

Commander-in-Chief having mentioned special (? importance of)⁵ position at Shanghai I hoped that Japanese landing force recently sent would act with great prudence and in agreement with other forces there. Minister for Foreign Affairs replied that orders had been given to keep them on board unless the Japanese Minister considered it necessary to land. Before leaving I made a final appeal to the Minister for Foreign Affairs to make as easy as possible task of the League which both Great Britain and Japan had done much to build up.

Repeated to Peking.

³ No. 590.

⁴ This word was later emended to read 'line'.

⁵ The text is here uncertain.

No. 603

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 11, 4.30 p.m.)

No. 505 Telegraphic: by wireless [F 5616/1391/10]

PEKING, October 10, 1931

Mr. Ingram telegraphs on October 7 that party organization have started anti-Japanese agitation throughout the whole country which is beginning to react on the Government. If the League on October 14 does not produce an alleviation of the crisis, the Government will be discredited and either have to go or yield to popular clamour. Further there may be an anti-foreign reaction. So long as present Government remains in power . . .¹ stringent steps have been ordered—even firing to kill—to protect foreign life and property. But if the Government falls chaos may ensue.

¹ The text is here uncertain.

2. There is undoubtedly much in this. And I am gravely apprehensive of an explosion if present tension continues and acts such as bombing of Chin-chow are perpetrated.

3. I cannot understand length to which Japan is going. Virtually a state of war now exists without the legality conferred by a formal declaration. And I have been wondering whether the League if satisfied as to facts might not insist regardless of Japan's consent on sending a commission to investigate. I believe . . .² might ease the tension and give a breathing space during which both parties may cool off. But in the interval Japan would have to cease all aggressive action or further encroachment.

4. Seen from this end the whole structure of our post-war peace organisation seems at stake. Whatever the exasperation caused in Japan by China's folly, the action taken by Japan, hundreds of Chinese killed, is surely out of all proportion to alleged offence. If the League machinery and Kellogg Pact now fail, I submit that they and all their sponsors will suffer a set-back, extent of which it is hard to estimate. I am most anxious not to exaggerate but Japan's action has set currents stirring of more far-reaching import than she or any of us can have anticipated. I realize only too well necessary limitations, if the League action should not have been wise, and well informed Chinese opinion must realize them too—but it seems to me imperative in all our interests that some form of definite action be . . .² such as arbitration or commission or that the League unequivocally go on record as to what it holds to be the wrongs and rights of the case and should not wind up its endeavours in a colourless formula—viz., patience.

5. So strongly do the State Department feel as to the danger of the situation that they have telegraphed to the Secretary-General at Geneva fully endorsing the action of Council to date and offering to place at his disposal all such information as the two American observers can glean.³

Repeated to Mission, Commander-in-Chief and Tokyo.

² The text is here uncertain.

³ See No. 567, note 4.

No. 604

Sir M. Lampson (Peking) to the Marquess of Reading
(Received October 11, 9.30 a.m.)

No. 519 Telegraphic: by wireless [F 5587/1391/10]

PEKING, October 10, 1931

Your telegram No. 310¹ and my telegram No. 520.²

Having heard that Dr. Koo is flying to Nanking again on October 11 at the summons of President I have seen him informally and imparted purport of your instructions to me, at the same time explaining reason why I am hesitating without further orders from you to act on them. But meanwhile

¹ No. 586.

² No. 599.

I feel disposed to let President know informally from me what the purport of those instructions was. Koo said that the position really turned on whether League or His Majesty's Government could give any guarantee that if China acted on this (no longer to insist on prior evacuation of occupied points) Japan would be reasonable. I said I did not see how anyone could possibly give any such guarantee: but it might be a point for League (not an individual foreign government) to consider. We left it that he should at his discretion let President know outline of conversation.

Repeated to Mr. Ingram, Tokyo, Commander-in-Chief.

No. 605

Letter from Lord Tyrrell (Paris) to Sir R. Vansittart

[F 5689/1391/10]

BRITISH EMBASSY, PARIS, October 10, 1931

I made enquiries of Massigli today about the action recently taken by the French Delegation at Geneva, which resulted in isolated action on our part in Tokyo. (See your letter of October 6th.¹)

2. Massigli said that in stating that the 'French Government *are sending* following telegram to their Ambassador in Tokyo' Geneva telegram of September 23² went too far. Massigli says that he did not, as Cadogan and Lord Cecil knew, enjoy full powers at Geneva, and that all he said was that he would *suggest* to the French Government to send the telegram in question to Tokyo. I can imagine that he may have spoken on this point with too great assurance and that this was the origin of the first misunderstanding.

3. Immediately after his interview with our Delegation and after he had drafted the telegram which he suggested that the French Government should send, Massigli says that he referred the draft to Paris. Here occurred the second misfortune, for owing—I gather, in great confidence—to Briand's indolence at the moment and possibly the Léger influence in Far Eastern questions, there was a delay at the Quai d'Orsay, the result of indecision as to what action ought to be taken in the Far East.

4. Unfortunately this delay and indecision were not reported to Massigli, who was therefore apparently in genuine ignorance of the fact that the Quai d'Orsay had not acted on his suggestion.

5. In the meantime the Foreign Office instructed our Ambassador at Tokyo to 'take action similar to that of your French, German and Italian colleagues'; and here occurred the third misfortune, for Lindley—probably quite properly—went beyond his instructions and acted at any rate without his French colleague.

6. Then came the telegram from Lindley informing the Foreign Office that his French colleague had not received instructions.³ Massigli enquired

¹ No. 563.

² No. 520.

³ No. 526.

at the Quai d'Orsay what had passed and learned for the first time that his suggestion had not been acted upon. In the meantime the Quai d'Orsay appear to have received information from their Ambassador in Tokyo that the Japanese Government would not object to the despatch to Manchuria of observers, provided they were drawn from the ranks of those normally accredited, i.e., the existing French diplomatic and Consular staff in China. A modified instruction was therefore sent to Tokyo which amounted to little more than a counsel of moderation.

7. These are the circumstances, as Massigli related them today, and I do not think they are such as make it possible to maintain the charge of bad faith. According to information which reaches me here, the Japanese are not above playing off one European Power against another in this matter, and the fact that we took action which the French did not take seems to have been deliberately exploited here by the Japanese Embassy.

8. I am giving a copy of this letter to the Secretary of State on his way through Paris,⁴ as well as a copy of the enclosed memorandum⁵ on the line which the French are likely to take at Geneva.

Yours ever,
W. T.

⁴ Lord Reading left London for Geneva on October 11.

⁵ Not printed.

No. 606

Sir M. Lampson (Peking) to Sir R. Vansittart

(Received October 11, 9.30 a.m.)

No. 525 Telegraphic [F 5576/1391/10]

PEKING, October 11, 1931, 12.10 p.m.

Following received from Mission No. 172, October 10.

Begins.

Your telegram No. 255.¹

I showed Minister of Finance this telegram this afternoon, he had just heard that the Council meeting was advanced to October 13 as a result of Chinchow bombing and was consequently in receptive mood as he felt the Powers were at length beginning to take the situation here seriously.

I advanced the obvious arguments in favour of restraining popular feeling and of taking steps to secure that no untoward incident should occur on the Chinese side before the Council met.

Dr. Soong took note of communication and promised to advise his colleagues in the desired sense at tomorrow morning's meeting of Foreign Affairs Committee.

I hope to take similar action with the Acting Minister for Foreign Affairs tonight.

¹ No. 583.

No. 607

Sir F. Lindley (Tokyo) to Sir R. Vansittart
(Received October 11, 11.30 a.m.)

No. 195 Telegraphic [F 5558/1391/10]

TOKYO, October 11, 1931, 4.18 p.m.

Sir M. Lampson's telegram No. 519.¹

Minister for Foreign Affairs told me yesterday that he had explained to the Chinese Minister that there was now no real occupation of places outside railway zone. There were only certain observation posts to guard against surprise. The Chinese Minister himself proffered . . .² and understood military need of this arrangement.

It occurs to me that the Chinese face might be saved if this explanation were accepted at its face value. I am convinced of the importance of early negotiations.

Repeated to Peking.

¹ No. 604.

² The text is here uncertain. This passage was later amended to read: ' . . . Minister himself a General understood . . . '.

No. 608

Sir F. Lindley (Tokyo) to Sir R. Vansittart
(Received October 11, 2.45 p.m.)

No. 196 Telegraphic [F 5559/1391/10]

TOKYO, October 11, 1931, 7.45 p.m.

My immediately preceding telegram.¹

Minister for Foreign Affairs impressed on both French and American representatives when they made representations this afternoon that he was confident of a speedy settlement once direct negotiations with China began. He recalled to both incidents at Washington in 1922 when he settled Shantung controversy as soon as he had persuaded the Secretary of State to allow negotiations without third parties.

My colleagues share views I have consistently held that this business can only be settled directly and we do not feel that Chinese fear that Japan may prove unreasonable is sufficient reason for delaying negotiations.

We consider with assistance of America it should not be difficult to restrain excessive demands by Japan if she makes any.

Repeated to Peking.

¹ No. 607.

No. 609

Sir M. Lampson (Peking) to Sir R. Vansittart

(Received October 11, 9.30 p.m.)

No. 521 Telegraphic [F 5575/1391/10]

My telegram No. 513.¹

PEKING, October 11, 1931, 11.55 p.m.

Mr. Ingram reports October 9 that the situation at Nanking is daily growing . . .² as October 14 approaches. Popular clamour is so strong and widespread that failing decision at Geneva or some form of intervention by (? Powers which could be)² represented as diplomatic victory for Chinese, present Government may be faced with choice of resignation or war. Any succeeding Chinese Government might find itself obliged to go to war or seek *rapprochement* with Russia. Government circles consider *rapprochement* would merely postpone China's difficulties or will at the best result in substitution of Russia for Japan, and at the worst . . .² Russia and Japan as complication to be faced in Manchuria. If Canton returns to the fold it is possible that even present Government may have to turn to Russia.

Mr. Ingram states that failing satisfaction on October 14 the Central Government is seriously considering prospect of armed conflict in Manchuria if it is not precipitated before then by Japanese action in Yangtze Valley or Greater Shanghai or by Chinese student attacks on Japanese nationals. Japanese could retaliate with use of force either at Nanking, Hankow or Greater Shanghai.

Repeated to Tokyo and Commander-in-Chief.

¹ No. 591.

² The text is here uncertain.

No. 610

Sir M. Lampson (Peking) to Sir R. Vansittart

(Received October 12, 9.0 a.m.)

No. 523 Telegraphic: by wireless [F 5588/1391/10]

PEKING, October 11, 1931

Consul-General Shanghai reports Chinese authorities are taking all precautions against anti-Japanese disorders. They fear that attacks by Communist elements on Japanese might give the latter the pretext to occupy part of Shanghai. Fourth Japanese destroyer flotilla arrived at Shanghai October 9. Chinese soldiers and police have received secret instructions from Nanking to resist in case of attempt to disarm them. Arms and ammunition in Kiangnan Arsenal are being removed to Nanking.

Japanese Consul-General states that fear of occupation of the city is absurd. I have instructed Consul-General to keep me informed urgently of all developments.

Repeated to Commander-in-Chief.

No. 611

Sir M. Lampson (Peking) to Sir R. Vansittart
(Received October 12, 9.30 a.m.)

No. 527 Telegraphic: by wireless [F 5608/1391/10]

PEKING, October 11, 1931

Following received from Mission No. 171 of October 10. Begins.

Minister of Finance told me in strict confidence this afternoon that in the event of war Chinese Government had no intention of getting trapped in Nanking but would move right into the interior with the bulk of their forces to some spot which Japanese would find difficult to reach but from which they could organise a come-back at appropriate moment. To enable a speedy movement when the critical moment came preliminary evacuation of archives and material was already taking place.¹

Nanking is full of rumours but I found members of Government at today's ceremony² calm and dignified.

¹ In his immediately following telegram Sir M. Lampson repeated to the Foreign Office Sir M. Hewlett's telegram No. 77 of October 10, which read: 'In confidential conversation Minister of Finance told Mr. Ingram and me today that he did not think Japanese were so mad as to bombard Nanking suddenly as rumour feared. A serious attack and occupation as opening move in war was another affair. It would necessitate additional men-of-war and troop ships. Formal defence with bulk of army would be out of the question because owing to floods Nanking is a military trap. Troops were accordingly being moved north and inland so as to facilitate move of Government in case of war but enough troops would be left to ensure order and to protect Nanking against sudden raid. He did not think any danger for foreign residents was involved.'

² October 10 was a public holiday in celebration of the Chinese National Independence Day.

No. 612

Sir M. Lampson (Peking) to Mr. Ingram (Nanking)

No. 280¹ Telegraphic [F 5589/1391/10]

PEKING, October 11, 1931

Your latest reports seem to show that if too hard pressed China really may declare war.²

2. You should see Acting Minister for Foreign Affairs *at once* and put to him in my name insensate folly of any such step. You should also see T. V. Soong and others and say the same thing using the most outspoken language. Surely they must see that this is the very step into which Japan is trying to push China? If not, they are less intelligent than I had supposed.

¹ This telegram was addressed to Nanking as No. 280, and was repeated by wireless as No. 529 to the Foreign Office, where it was received on October 12 at 9.0 a.m.

² See Nos. 597, 622, and 611; also No. 609.

3. To declare war is in my opinion to commit a fatal error and to lose the whole tactical advantage which China's attitude of studious moderation has so far succeeded in achieving. I do most earnestly beg them—from President downwards—not to commit this folly.

4. Wellington Koo left for Nanking by air today and will be in direct touch with President. Please show him this telegram and ask him from me if he will show it to the President urgently.

Repeated to Foreign Office, Commander-in-Chief and Tokyo.

No. 613

Mr. Phillips (Canton) to Sir M. Lampson (Peking)

No. 120¹ Telegraphic [F 5580/1391/10]

CANTON, October 11, 1931

Serious trouble occurred in Canton city last night when anti-Japanese demonstrators clashed with Chinese police who had to open fire, and a few Chinese were killed and wounded. Accurate details are not yet available. So far conditions reported quiet this morning.

Repeated to Foreign Office, Hong Kong, General Officer Commanding, Commander-in-Chief, Commodore, . . .² Mission and Shanghai.

¹ This telegram was addressed to Peking as No. 120, and was repeated by wireless as No. 26 to the Foreign Office, where it was received on October 11 at 4.30 p.m.

² The text is here uncertain.

No. 614

Mr. Phillips (Canton) to Sir M. Lampson (Peking)

No. 121¹ Telegraphic [F 5610/1391/10]

CANTON, October 11, 1931

Your telegram No. 42.²

Japanese Consul-General told me very confidentially this morning that he personally feared that in the event of Nanking Government failing to give a satisfactory reply to latest Japanese note Japanese fleet now assembled at Sasebo might take some action which might have a very serious effect and he understood that Chinese reply was likely to be unsatisfactory in regard to putting down anti-Japanese boycott etc.

He said however that navy would unlike the army only act under direct instructions of Japanese Government.

¹ This telegram was addressed to Peking as No. 121, and was repeated as No. 27 by wireless to the Foreign Office, where it was received on October 12 at 9.0 a.m.

² It has not been possible to trace this telegram in the Foreign Office archives.

He added he had received full assurances from many leading members of Canton Government that all local agitation would be strictly controlled but he was not sure of the position in the case of a unified Government being established in China.

Repeated to Foreign Office, Mission, Shanghai, Hong Kong, Commander-in-Chief, General Officer Commanding and Commodore.

No. 615

Sir R. Vansittart to Lord Tyrrell (Paris), Mr. Osborne (Washington), Sir R. Graham (Rome), Sir H. Rumbold (Berlin), Sir G. Grahame (Madrid)

No. 284¹ Telegraphic [F 5574/1391/10]

FOREIGN OFFICE, *October 12, 1931, 3.15 p.m.*

My telegram No. 313 to Peking.²

Please inform Government to which you are accredited.

¹ No. 284 to Paris, No. 722 to Washington, No. 270 to Rome, No. 212 to Berlin, and No. 76 to Madrid.

² No. 616.

No. 616

Sir R. Vansittart to Sir M. Lampson (Peking)

No. 313 Telegraphic [F 5574/1391/10]

FOREIGN OFFICE, *October 12, 1931, 3.45 p.m.*

Your telegram No. 520.¹

Instructions to urge Chinese Government to negotiate without prior condition were based on consideration that otherwise, in view of Japanese attitude and excuse afforded them by insecurity of their nationals in Manchuria complete deadlock must continue, with almost certain aggravation of situation as time passed.

As Council meeting is about to open and in your judgment step would do no good you should not take it in the absence of further instructions.

Repeat to Tokyo No. 129.

Repeated to Washington No. 721, Berlin No. 211, Paris No. 283, Rome No. 269, Madrid No. 75 and Geneva No. 169.

¹ No. 599.

No. 617

Sir R. Vansittart to Mr. Patteson (Geneva)

No. 173 Telegraphic [F 5581/1391/10]

FOREIGN OFFICE, *October 12, 1931, 7.0 p.m.*

Following for Mr. Cadogan.

Sir E. Drummond has asked whether information contained in our telegram No. 161¹ could be repeated to State Department, Washington.

Portions of Military Attaché's report from Peking were telegraphed to Sir E. Drummond for his own information and were, obviously, not suitable for circulation to the Council. We do not feel drawn to the suggestion particularly as the report is of a situation twelve days past.

Would it not be better to leave the United States Government to get whatever information is pooled at Geneva? If we favour them we may give offence to others. Please explain our view.

¹ Not printed. See No. 573, note 3.

No. 618

Sir M. Lampson (Peking) to Sir R. Vansittart

(Received October 12, 2.20 p.m.)

No. 535 Telegraphic [F 5611/1391/10]

PEKING, *October 12, 1931, 7.5 p.m.*

Following for Sir E. Drummond from Walters.

Sir M. Lampson received me this morning.

I hope you have seen his telegram of October 9¹ which seems to me to sum up the situation exactly right both from League's and China's point of view.

He is submitting following suggestion for consideration.

At beginning of meeting President should propose that before entering into substance of question the Council should record its appreciation of firm attitude of Chinese Government which has had result that in spite of grave apprehensions to the contrary protection of Japanese lives in China has been completely effective.

This could not of course be officially adopted if Japanese oppose but in that case Corfu precedent² could be followed by taking vote and recording opinion of all other Council members.

For reasons given in my telegram of October 10³ I strongly hope you will

¹ The reference is presumably to No. 603, which was drafted on October 9.

² For League of Nations action in regard to this dispute between Italy and Greece, see *League of Nations Official Journal*, November 1923, *passim*.

³ It has not been possible to trace a copy of this telegram in Foreign Office archives.

support this suggestion which cannot harm Japanese civilians and would surely (a) strengthen hands of Chinese Government in general (b) help it in particular to continue effective protection of Japanese and foreigners thus making it easier for Council to proceed without haste.

Essential that proposed resolution should refer only to China, otherwise it would do more harm than good. All observers here agree that Chinese Government fully deserve such recognition and need such encouragement, if President hesitates I personally hope Lord Cecil would act.⁴

⁴ Sir M. Lampson stated in his telegram No. 536 that the 'suggestion emanates from Walters not me: but I cordially endorse it from the angle of its effect upon Chinese public opinion'.

No. 619

*Sir M. Lampson (Peking) to Sir R. Vansittart
(Received October 12, 8.15 p.m.)*

No. 539 Telegraphic: by wireless [F 5644/1391/10]

PEKING, October 12, 1931

Mission telegram No. 172¹ final paragraph.

Mr. Ingram and . . .² acted on my telegram No. 255.³

Acting Minister for Foreign Affairs stated at meeting between President, Minister of Finance and himself that it had been decided to make every effort to calm popular feeling during next few days.

Japanese Minister reached Nanking tonight too late for October 10 ceremony and meeting with Acting Minister for Foreign Affairs for presentation of note on boycott was postponed until following day. In informal conversation Acting Minister for Foreign Affairs informed Japanese Minister that Chinese Government were determined to do their utmost to avoid any provocative incidents on Yangtze and latter has replied that he would do his best to avoid any aggressive action such as landing marines.

Situation at Nanking momentarily easier but it is doubtful whether Japanese Minister can exercise much influence on events.

Change in date of Council meeting to October 13 and presence at Geneva of Ministers for Foreign Affairs has had good effect.

Repeated to Tokyo.

¹ See No. 606.

² The text is here uncertain. The reference should probably be to Sir M. Hewlett.

³ No. 583.

*Record of a conversation at Geneva between the Marquess of Reading and
Mr. Yoshizawa¹*

[F 5854/1391/10]

GENEVA, October 12, 1931

Mr. Yoshizawa, the Japanese Ambassador in Paris, said he wanted to see me following upon the interviews the Japanese Ambassador in London had had with me.

He briefly related the story from Japan's point of view, laying stress on the serious difficulties the Japanese Government had had through a period of years with China. He complained especially of the numerous and constant acts of the Chinese Government for the purpose of introducing anti-Japanese feeling among the Chinese, including even the children, who were taught from text-books devised to instil hatred of the Japanese. His Government desired to get into negotiation with responsible men of the Chinese Government with the object of securing reasonable protection for the Japanese and Koreans. He repeated the statements that there are only 14,000 Japanese troops in Manchuria; the Chinese had more than ten times that number. There were nearly a million Japanese citizens, counting the Koreans, in Manchuria. He repeated also that many outrages had been committed—murders of Japanese and Koreans—and that the Japanese Government was bound to take steps for their protection.

I observed that the Chinese would represent that when they sought to introduce soldiers for the purpose of giving protection, the Japanese resented their presence and had in the incident at Chinchow actually bombarded them. This led to the present *impasse*, which might easily become something very much graver, as, for instance, the bombing operation.

I impressed upon him the gravity of the situation, which had been aggravated since the last meeting by this bombing operation. He said it was a scouting operation, and that there were eleven aeroplanes for the purpose and the Chinese troops had fired on them, and, of course, feeling was running very high and they had then bombed them. I said that the Chinese would reply that a scouting operation, which in itself had no right to take place, would not have required the men to carry bombs, which they had dropped together with leaflets. He said that his Government had telegraphed denying point blank that they had dropped leaflets. He was obviously uncomfortable about the bombing and said: 'Well, passions were very high, and the Japanese were very apprehensive lest they should be attacked on two sides by the Chinese soldiers.'

He stated that his Government wanted a few fundamental points settled by negotiation with responsible Chinese authorities—the Japanese would then evacuate and, of course, bombing, &c., must cease. They wanted to

¹ This record was transmitted to the Foreign Office under cover of despatch No. 126 of October 17 from the United Kingdom delegate at Geneva.

settle these questions without the League. The Chinese, on the other hand, wanted to bring in a third party to bring pressure on the Japanese. I said that, as I understood the matter, the relations between the Japanese and Chinese were not brought before the League except, first, in relation to the occupation of Mukden, Kirin, &c., and now, of course, the Chinese would refer to the bombing, and that the League had not been asked to intervene except in consequence of the Japanese soldiers' advance, and that these were matters with which the League had to deal.

He replied that the few fundamental points mentioned by him could be confined to the evacuation, that is, that protection would be assured to the Japanese civilians. He said his Government had sent a reply addressed to the President of the Council² which would be circulated to the members of the Council, and he hoped we would give consideration to it and also, he hoped, favourable consideration.

I replied that, of course, we should give most careful consideration to anything his Government put before us, but I could not but emphasise to him the grave importance of no solution being accepted of the matters with which the League was seized. Japan was one of the Great Powers originally responsible for the League and had been a loyal member of it. He said that his Government would do all possible, but he repeated that feeling was very strong in Japan and that the Government and military and public opinion were in accord on this subject, and that they thought it imperative that Japan should protect her citizens. I ventured also to remind him that his Government was a signatory of the Pact of Paris, and that I thought the Americans might be deeply concerned and that this might bring them in with the other Powers to find a solution and prevent war which might quickly ensue if the present situation was not remedied.

As he left I impressed upon him the seriousness of the effect upon the world of a matter of this character being brought to the League of Nations by two of its members without any solution being achieved.

² For the appeal of October 9 from M. Lerroxx to the Chinese and Japanese Governments, and for the Japanese Government's reply of October 12, see *League of Nations Official Journal*, December 1931, pp. 2484-5.

No. 621

Memorandum¹ by Sir J. Pratt (Geneva) respecting Manchuria The political background of the present dispute

[F 6118/1391/10]

GENEVA, October 12, 1931

After her crushing defeat by Japan in 1895 China turned for help to Russia. Russia tricked China into granting her permission to build the Trans-Siberian Railway straight across Manchuria to Vladivostok, the

¹ This memorandum was received in the Foreign Office on October 27.

section in Chinese territory being known as the Chinese Eastern Railway. From Harbin a branch line, known as the South Manchurian Railway, was built, running southwards at right angles to the main line to Port Arthur and Dalny (Dairen). The avowed object of building these Russian State railways on Chinese territory was to enable Russia to transport troops quickly to the point of danger should Japan again attack China.

2. During and after the Boxer disturbance of 1900, Russia flooded Manchuria with troops and threatened to absorb Korea. Japan, seeing herself threatened with destruction, declared war and defeated Russia. By the Treaty of Portsmouth of 1905 the South Manchurian Railway and Leased Territory of Kwantung (containing Port Arthur and Dairen) were transferred to Japan. Shortly afterwards Japan annexed Korea, and finally, when the rest of the world was engaged in the Great War, she consolidated her gains by means of the twenty-one demands, to the majority of which the consent of China was obtained at the bayonet's point.

3. The position thus eventually created was as follows:—

- (1) The Japanese Government owns and garrisons the South Manchurian Railway.
- (2) Koreans are entitled to own farms and settle in Manchuria. They are not allowed to become naturalised Chinese, but remain Japanese subjects under Japanese protection. About 1 million Koreans have thus emigrated into Manchuria, and are a constant source of friction between the Chinese and Japanese authorities.
- (3) Japanese have the treaty right to own land in the interior of Manchuria, but the Chinese have effectually prevented the exercise of this right. This also is a serious grievance, but, on the other hand, the Japanese would in any case be quite incapable of colonising Manchuria. There are very few Japanese residing even in Korea, which they have annexed.
- (4) In 1905 there were some 3 million Chinese in Manchuria. There are now 30 million Chinese as against some 200,000 Japanese.
- (5) Up to seven or eight years ago the South Manchurian Railway was the only railway. It was the economic spine of the country, and control of the railway gives Japan complete control over South Manchuria. During the last six years the Chinese have shown great activity in railway construction in Manchuria. Excluding the Peking-Mukden Railway, there are now in South Manchuria a network of nearly 1,400 miles of Chinese Government lines, namely, more than double the mileage of the South Manchurian Railway.

4. Japan claims that by a secret agreement in 1905 China agreed not to build railways parallel to the South Manchurian Railway.² By completing certain links in the network of Chinese railways referred to above Japan asserts that China has, in fact, built trunk lines on each side of the South Manchurian Railway, and that it is her intention to strangle this railway out

² See No. 728, note 2.

of existence. In December last year the Japanese Government decided that this situation must be cleared up once for all. They were prepared to treat the Chinese generously as regards financing further railway construction, &c., provided China would agree broadly that all the railways in Manchuria should be run as one system, thus putting an end to cut-throat competition. There were clear indications last December that the Japanese had decided on a definite line of action, namely, to be very friendly and conciliatory if China should prove amenable, but to adopt strong measures if she should be recalcitrant. It proved impossible to pin the Chinese down to serious negotiations on these lines, and eventually the Japanese commander in Manchuria judged that the time was opportune, when the rest of the world, as in 1915, were preoccupied with their own difficulties, for Japan to achieve her object *manu militare*.³ But once force has been used it is certain that Japanese aims will not be limited to their original demands.

5. China's folly in originally bringing Russia into Manchuria forced Japan to fight for her life, and still, in her view, forces her to maintain her position on the South Manchurian Railway. This, coupled with the question of the million Koreans under Japanese protection, creates a situation which must inevitably lead to clashes. China, however much she may have been to blame originally, cannot accept this position, and that is why she evaded Japan's invitation to negotiate last autumn. In the intervals between clashes her attitude is one of tacit protest. The situation is one which cannot be liquidated. China cannot acquiesce and Japan cannot withdraw. Eventually the population factor makes it certain that Manchuria will be purely Chinese, and that Japan, whatever her military strength may be, will draw no economic benefit from Manchuria unless she can cultivate the goodwill of the Chinese. The civilian side of the Japanese Government sometimes appears to accept and endeavour to act upon the long view, but they are generally, as in the present instance, overborne by the impatience of the military.

6. The one thing on which both civil and military are united in Japan is that they will not allow the League of Nations to intervene between them and the Chinese. In view of the utterly anomalous nature of the matter in dispute this is not surprising. A League commission could only ask in amazement how can one Government own and garrison a railway on another Government's territory; how can one Government claim to dictate to another Government what railways it shall or shall not build on its own territory or how it shall manage its own railways? Japan feels that if the League takes the dispute in hand she would lose her case before she had a chance of arguing it. Moreover, even if she did argue it, her position on some of the main points is singularly weak. The treaty right to restrain China from building railways parallel to the South Manchurian Railway rests on a secret protocol the validity of which might well be called in question. The so-called treaty right to guard the South Manchurian Railway with troops⁴ rests on an agreement with Russia which has never been formally accepted by China.

³ By force of arms.

⁴ See No. 517, note 3.

In any case, Japan believes that her existence as a nation is at stake, and she will leave the League rather than submit to League intervention.

7. Nevertheless, unless some means can be found of checking Japan, the results may be equally disastrous. China cannot negotiate until the Japanese troops have withdrawn. To do so would mean complete capitulation, for the sole object of Japanese aggression was to compel China to negotiate. If the Chinese Government capitulate, or if Japanese aggression continues, there is grave danger that all traces of ordered government will disappear throughout China, and the forces of disorder, masquerading under a veneer of communism, will prevail.

J. T. PRATT

No. 622

Sir M. Lampson (Peking) to Sir R. Vansittart
(Received October 13, 9.30 a.m.)

No. 531 *Telegraphic* [F 5643/1391/10]

PEKING, October 13, 1931, 11.0 a.m.

Following received from Mr. Ingram No. 170 of October 9.

Begins.

Acting Minister for Foreign Affairs told me this afternoon that situation was very grave. China had laid her case unreservedly in the hands of the League of Nations. Every effort had been made to persuade public opinion of the wisdom of this policy but events such as bombing of Chinchow whither troops had been sent to concentrate prior to resuming responsibility for maintenance of order as a result of negotiations anticipated in my telegram No. 155¹ made it difficult to control public exasperation. Although the Government had every intention of awaiting results of Council meeting of October 14 things might easily . . .² between now and then to precipitate a conflict. After what had occurred at Mukden September 18 and since Chinese Government felt that there was no limit to lengths to which Japanese might go. They feared that Japan was deliberately intent on forcing an incident before October 14 and he begged me to remember that there were certain limits beyond which endurance of no self-respecting people could be expected to stretch. For my private information he stated that any attempt by Japanese to land marines there [*sic* ? here] would be instantly resisted. I counselled calm and reminded him that there was still time for withdrawal to take place before Council met and commended effectiveness of steps taken hitherto by the Government to protect Japanese life and property.

When I taxed Mr. Lee with removal of archives he hedged and would not give any definite answer.

¹ The reference is to No. 584.

² The text is here uncertain.

Sir M. Lampson (Peking) to Sir R. Vansittart
(Received October 13, 9.30 a.m.)

No. 541 Telegraphic [F 5645/1391/10]

PEKING, October 13, 1931, 11.0 a.m.

Yano¹ called this morning and enquired as to despatch of members of Legation staff to Manchuria reasons for which I explained fully to him (though it had already been done to member of his staff by Mr. Stirling before he left); it was so that I and through me His Majesty's Government might be more fully apprised of actual *facts* and developments in Manchuria.

He asked if they had gone on invitation of Chinese Government; I replied nothing of the kind, indeed Chinese request of October 3² had actually delayed rather than expedited their departure.

After thanking me warmly for mentioning the inherent dangers in too ostentatious practise [*sic*] by Japanese Legation guard on the *glacis*³ he asked if, in the same friendly and personal way I could give indication of my general impressions of Japan's actions? I said frankly I thought bombing of Chinchow had been a great blunder and that recent note regarding boycott⁴ struck me as a psychological error. Feeling throughout China was running white hot and it was too much to hold Chinese Government responsible for feelings of individual citizens. Boycott was their only effective weapon as he and I knew to our cost: and in demanding its suppression by Chinese Government Japan was in my view asking the impossible in present conditions. It had struck me as a distinctly false move. Japanese Government must have realised before they struck that boycott was inevitable result.

I also hinted at grave danger of general chaos throughout China and a very probable swing on the part of the public to the Left from which none of us were likely to benefit.

I was seriously perturbed as to where present events were likely to lead us all, not only Japan. He evidently feels the same himself but was naturally

¹ First Secretary at the Japanese Legation at Peking.

² See No. 556.

³ In this connexion in his telegram No. 540 of the same day Sir M. Lampson had stated: 'In the event of actual hostilities between Japan and China presence of Japanese Legation guard here may raise awkward problem. To prevent incidents possibly affecting other Legation guards Japanese guard should presumably be withdrawn outside first as was done in the case of German guard in 1917. Matter does not at present arise but a decision may be required at short notice so unless I receive instructions to the contrary I shall in case of need take above line. If Japan occupied Peking question would (?solve) itself. Japanese guard have caused some adverse comment by openly practising on the *glacis* and senior Minister has suggested that I should take up the matter. I felt justified a few days ago in writing most friendly personal letter to my Japanese colleague here calling attention to inherent dangers and suggesting tact. I had a responsive reply from him and he has since told me he is doing his best but that as the guard are under the War Office in Tokyo his position is a delicate one. I have heard no further complaints.'

⁴ See No. 590, note 1.

guarded. He explained at great length and with some warmth justification of Japan's action. I admitted grounds for exasperation; we too knew what tergiversation and obstructions meant but punishment administered struck me as out of all proportion to the crime. Interview was as usual most friendly and open.

Repeated to Mission and Tokyo.

No. 624

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 13, 1.30 p.m.)

Unnumbered Telegraphic [F 5672/1391/10]

GENEVA, October 13, 1931, 12.25 p.m.

Following received from Tokyo addressed to Geneva No. 1 of October 12, repeated to Peking. Following for Secretary of State.

Following is my appreciation of situation.

Japanese military in Manchuria are guided entirely by military considerations and are capable of repetition of Chinchow incident if they consider safety of their troops threatened by Chinese concentration.

Japanese Government are as anxious to avoid open war as Chinese Government and Chinese fears of attack on Nanking and other places in China proper appear to us fantastic.

Only operation which might be undertaken there is landing of small force if Japanese lives are in imminent danger.

Japanese Government are as anxious for end of present dangerous situation as are Chinese Government but they are determined to force a settlement of their long standing grievances and to put an end to the policy of boycott and anti-Japanese propaganda to which Chinese authorities have habitually resorted when hard pressed.

I do not believe they would be found unreasonable if negotiations were begun. Japanese Government have undertaken immense risks in forcing issue.

They will not relax pressure before Chinese show that they mean to meet them. Nevertheless if America made serious threat of economic or financial hostility Japanese Government might be obliged to give way.

Resulting bitterness would be a serious factor in the Far East for a long time since whole country is behind Government.

So much so that any Minister who weakened now would probably be assassinated.

Above appreciation is of course valueless if China declares war.¹

¹ In his despatch No. 494 of October 16 (not printed) Sir F. Lindley recapitulated this appreciation of the situation, and added: 'I am sorry to say that the above appreciation, which was subject to the proviso that the Chinese did not declare war, holds good today. If anything, the Japanese appear more determined now to obtain solid results from their Manchurian venture than they did a few days ago. Their refusal to accept an American observer at the Council of the League of Nations [cf. No. 631, note 2] appears to me to be a

very unhopeful sign since, from the practical point of view, it can make no difference to the issue whether the American is sitting at the Council or conferring with them privately after or before the meetings take place. The refusal, in short, makes it appear as if the Japanese wish to give notice to the League that they will accept no intervention of any kind. In these circumstances I was doubtful whether it was worth while sending off my telegram No. 6 of today's date (to Geneva) [not traced in Foreign Office archives] suggesting that it might be useful to propose that the League of Nations send a commission to Manchuria in order to arrange and supervise the evacuation of the Japanese troops and, at the same time, call upon the Chinese Government to enter into negotiations with the Japanese at once without waiting for the evacuation to begin. This proposal has the advantage that it saves the face of the Chinese to some extent by giving the Japanese the substance of what they demand, i.e., direct negotiations with the Chinese before evacuation. I have only mentioned this proposal to the French Ambassador, who has had long experience of China, and I was agreeably surprised to find that he was inclined to think it might possibly be accepted by both parties. Personally, I doubt whether the Japanese would accept it in their present mood. The fact is, as I have had the honour to point out more than once, that the success of the Soviets in resisting all intervention in 1929 has done more than anything else to encourage the Japanese in their present line of action. It is possible that they may yet see that Japan and Soviet Russia are entirely differently situated, both politically and geographically, and that they may, after all, bring themselves to abate enough of their pretensions to save the face both of the League of Nations and of the Chinese Government.'

No. 625

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 13, 4.20 p.m.)

Unnumbered Telegraphic [F 5678/1391/10]

GENEVA, October 13, 1931, 4.5 p.m.

Following received from Tokyo.

Addressed to Geneva No. 2 October 13, repeated to Peking. (Peking please repeat to Nanking.)

Press has been full today of reports of meetings between the Prime Minister and number of statesmen outside his party including leaders of the Opposition. These have given rise to surmise that a National Government might be formed.

I hear from trustworthy official sources that such a development is not contemplated. Object of meetings has been to explain situation more fully than can be done by published statements and to disarm criticism especially of Minister for Foreign Affairs who is suspected by patriots to lack firmness.

Please repeat to Foreign Office.

No. 626

Sir M. Lampson (Peking) to Sir R. Vansittart (Received October 15, 5.0 p.m.)

No. 555 Telegraphic: by wireless [F 5760/1391/10]

PEKING, October 13, 1931

Following received from the Mission No. 181 October 12.

Addressed to Peking No. 181; repeated to Commander-in-Chief.

Your telegram No. 280.¹

Minister of Finance to whom I have just shown your telegram asks me to assure you that China's case being before the League of Nations she has no intention of declaring war but emphasises the danger of provocative incidents on Japan's part which would meet with retaliation see A. and B. of third paragraph of my telegram No. 164.² Conflict arising in such circumstances would produce general conflagration which would amount to war.

¹ No. 612.

² It has not been possible to trace this telegram in the Foreign Office archives.

No. 627

Mr. Strang (Moscow) to the Marquess of Reading (Received October 19)

No. 537 [F 5852/1391/10]

MOSCOW, October 13, 1931

My Lord,

With reference to my telegram No. 175¹ of yesterday's date, I have the honour to report that the Polish military attaché, Colonel Kowalewsky, told Mr. Greenway on the 9th instant that there had been important troop movements in the Far Eastern region and that general headquarters had been transferred from Khabarovsk to Irkutsk. He believed the Japanese to be keeping the Russians in check by threatening, if the latter gave trouble, to induce the Chinese to bring up the question of Outer Mongolia which, nominally Chinese, is actually a Soviet appanage.

2. On the morning of the 12th instant, Mr. Cunningham, the representative of the Indo-European Telegraph Company, who is in close touch with official circles and whose information is generally reliable, informed me that the authorities were now very worried about the situation in the Far East. They were anxious not so much about Manchuria as about Outer Mongolia where they feared a local rising, possibly at the instigation of the Japanese. In consequence of this, he said, troops had been concentrated at Irkutsk, among them, the garrisons from Kazan, Samara and Orenburg. He added that a number of staff officers who had been imprisoned at the time of the troubles in the army last year had now been released and sent back to their

¹ Not printed. This telegram briefly summarized the information reported in paragraphs 1-7 below.

posts; and that the movement of grain from Siberia had been stopped, so that the line might be cleared for troop movements.

3. I instructed Mr. Greenway to see Colonel Kowalewsky once more in order to obtain confirmation, if possible, of Mr. Cuninghams' information. Colonel Kowalewsky was much interested and said that he could confirm some of it, whilst the rest of it was probable. He himself was in the middle of writing a report in which he said that Mongolia was the danger point rather than Manchuria, and that the movements of troops westwards to Irkutsk from the Amur region were probably carried out with a view to a possible rising in Outer Mongolia, while at the same time they would be more easily available for any trouble in Manchuria than if they were isolated at Blagoveshchensk and Khabarovsk. There was also a movement towards Vladivostok.

4. He stated that regular troops at present comprising the Far Eastern Army are as follows:—

- 5 divisions of infantry (50,000 to 60,000 men);
- 2 brigades of cavalry;
- 2 army corps headquarters staffs;
- 2 or three groups of aeroplanes;
- 1 battalion of tanks, and
- 2 regiments of corps artillery.

5. According to Colonel Kowalewsky, the following moves have recently taken place:—

- Army Headquarters from Khabarovsk to Irkutsk;
- 2nd Infantry Division from Blagoveshchensk in the direction of Chita;
- 21st Army Corps Headquarters from Khabarovsk to Vladivostok.

6. There are still at Vladivostok, as far as he knows, one division of infantry and a brigade of cavalry. Another division of infantry and a second brigade of cavalry are near Chita.

7. Colonel Kowalewsky was unaware of the alleged moves of the garrisons of Kazan, Samara and Orenburg. As regards the clearing of the Siberian Railway for troops, he thinks this may possibly, but not altogether, be explained by the fact that supply, sanitary and agitation points have recently been set up all along the line in view of routine moves involving the withdrawal of the 1907 class, which was due to be released from service on the 25th September, but which, as far as latest information goes (4th October), is still being held in service; and the transport to the Far Eastern Army of the new recruits of the 1909 class. Colonel Kowalewsky had no information regarding the alleged release of the staff officers involved in the recent conspiracy.

8. The Soviet press, while giving great prominence to news from Manchuria and lending their reports a strongly anti-Japanese tone, have for some time past abstained from direct comment on the situation. Press correspondents and others who have spoken to members of the Government and

competent Soviet officials find them extremely reticent on the subject. M. Litvinov was, however, I am told, heard to say at an afternoon reception to foreign press correspondents a day or two ago that the situation was much more serious than people seemed to imagine and that the Council of the League of Nations showed no signs of being able to cope with it. My informant, Mr. Duranty,² gathers that the Soviet Government are much more anxious about the situation than they were in the earlier stages of the incident, both because the Japanese military authorities seem to have taken the bit between their teeth and because anti-Japanese opinion in China as a whole has become increasingly coherent and explosive. So long as the Chinese were being taught a much-needed lesson and the Japanese were getting themselves into mild trouble with the Chinese and with the Powers, Russia could look on with comparative equanimity. But now that violent developments are more likely than they were, for example, a fortnight ago, the Soviet authorities have cause to be nervous. The last thing they want is a war on their frontier at a point where their interests may be threatened. Mr. Duranty understands that the action of the United States of America has been more definite than the Soviet Government expected and he guesses that the latter would be grateful if the United States of America and the Council of the League could together bring the Japanese and Chinese to reason and thus save the Soviet Union from having to make a difficult decision. What the Soviet authorities particularly fear, he thinks, is an attack by White Guard bands, at Japanese instigation, either upon the Chinese Eastern Railway or over the Soviet frontier, both of which would call for some action on their part.

9. I understand from the same source that M. Litvinov did more, in the opening days of the incident, than merely ask the Japanese Ambassador what the intentions of his Government were, but gave him to understand that an occupation by Japanese troops of points on the Chinese Eastern Railway would not leave the Soviet Government indifferent.

10. Meanwhile, Mo Teh-hui seems to be putting it about that Nanking and Moscow are in close touch and of one mind as regards the present situation in Manchuria. I have this both from Mr. Duranty and from Sir John Hope Simpson,³ who saw Mr. Mo on his way through to China on the 11th October. I should doubt myself whether the Soviet Government would commit themselves to this extent. The Nanking Government is no friend of theirs, and Chiang Kai-shek and the Kuomintang are almost as common a target for Soviet abuse as the Pope and Sir Henri Deterding,⁴ and, in any case, the Soviet policy in this dispute is likely to be one of extreme and anxious caution.

I have, &c.

WILLIAM STRANG

² Correspondent in Moscow of the 'New York Times'.

³ A League of Nations flood relief expert. Sir J. Hope Simpson was, on his arrival in China, appointed Director-General of the Chinese National Flood Relief Commission.

⁴ A director of the Royal Dutch Oil Company.

No. 628

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 14, 11.10 a.m.)

Unnumbered L.N. Telegraphic [F 5699/1391/10]

GENEVA, October 14, 1931, 10.20 a.m.

Following received from Tokyo.

Addressed to Geneva No. 3 of October 14, repeated to Peking for Nanking.

Military authorities (*sic* ? Attaché)¹ was yesterday given figures by Minister of War according to which nearly one thousand Koreans and Japanese civilians were murdered in different parts of South Manchuria between September 22 and October 5.²

Please repeat to Foreign Office.

¹ The text is here uncertain.

² Cf., however, *League of Nations Official Journal*, December 1931, p. 2505.

No. 629

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 14, 11.25 a.m.)

Unnumbered L.N. Telegraphic [F 5700/1391/10]

GENEVA, October 14, 1931, 11.30 a.m.

Following received from Peking.

Following for Sir W. Selby. Begins:—

Manchuria.

What about precedent of Shantung conversations at Washington, e.g. direct conversations with neutral observer—League or outside Powers?

I do not know whether Japan would accept this—probably not in her present mood. But she might do so as face saving device if idea of League Commission were first put up, and then when she opposes, dropped in exchange for above.

I throw out above suggestion for what it may be worth.¹

Please repeat to Foreign Office.

¹ The following memorandum on the Washington conversations of 1922 respecting Shantung was despatched to Geneva on October 14: 'The neutral observers (American and British) actually did much of the negotiating, each adopting for convenience of discussion the role of a principal party. The Chinese were only induced to come to terms in the end by strong personal pressure from the heads of the British and United States delegations and the President of the United States.'

Sir M. Lampson (Peking) to Sir R. Vansittart
(Received October 14, 4.15 p.m.)

No. 565 Telegraphic: by wireless [F 5720/1391/10]

PEKING, October 14, 1931

Following received from Mission No. 180 of October 12.

In conversation this afternoon I asked Japanese Minister his views as to how situation could be eased. Were there not two issues—the September 18 incident and general question of Sino-Japanese relations? You have been doing your best to exercise moderating influence and would I felt sure like to hear from him his views as to possible line along which situation might be further alleviated.

2. Japanese Minister said that Japan could not detach the two problems from each other. The solution of the September 18 incident could not precede a general attempt to solve outstanding questions since the background of that incident was in fact part and parcel of the wider problem of mutual relations. The first essential was to secure an ease up of the Yangtze Valley situation before any hope of approaching the Manchurian problem would arise. He knew the difficulties of the Chinese Government, its inherent weakness and lack of grip over the bulk of China but in the Yangtze Valley and in Shanghai it could exercise control up to a point.

There must be evidence that control is being exercised effectively before any progress could be wrought. Portraits of the Emperor of Japan had been paraded in the streets of Shanghai, and everywhere, with paper swords stuck through the heart. He had been able to prevent publicity being given to this in Japan where its effect would have been disastrous on opinion. He was genuinely doing his utmost but there must be reciprocity. He must first see anti-Japanese posters removed and have evidence that the Government through its speech-makers and party were making a determined effort to curb agitation and boycott before there could be any relaxation of the tension. I asked him if he [?] had specified in so many words the above to the Chinese Government and he said he had only addressed them in general terms but that it could do no harm if it were passed on to Minister of Finance.

CHAPTER X

Japanese military activities in Manchuria: invitation to the United States Government to be represented at the Council of the League of Nations: appeal to the Chinese and Japanese Governments under the Pact of Paris: the Council's resolution of October 24 (October 14–24, 1931)

No. 631

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 14, 7.10 p.m.)

No. 129 L.N. Telegraphic [F 5725/1391/10]

GENEVA, October 14, 1931, 6.25 p.m.

My telegram No. 128.¹

At private meeting this morning it was agreed that the President should at once see United States representative and arrange with him terms of communication to United States Government inviting their collaboration. This communication will, it is hoped, be telegraphed to Washington today. Japanese will be informed but their concurrence will not be sought.

Meanwhile the President will continue conversations with parties in an attempt to approach towards solution on lines of (1) evacuation, (2) offer of observers to watch taking over control by China and to afford some guarantee of security in evacuated areas, (3) Chinese to declare when evacuation is complete that they will be prepared to enter into direct negotiations with the Japanese on fundamental issues of the dispute both sides retaining all rights under the covenant.

It is not certain whether the Council will meet today: it depends on whether there is definite development as regards United States collaboration.²

Repeated to Nanking No. 2 and Tokyo No. 2.

¹ Not printed. This telegram reported on the meeting of the Council of the League of Nations in the afternoon of October 13. See *League of Nations Official Journal*, December 1931, pp. 2313–21.

² For further consideration by the Council of the League of Nations of the proposal to invite the United States Government to be represented at the Council table, see No. 692; also *ibid.*, pp. 2322 f.

No. 632

*Mr. Patteson (Geneva) to Sir M. Lampson (Nanking)*¹

No. 3² Telegraphic [F 5726/1391/10]

GENEVA, October 14, 1931

Following from Secretary of State.

Your telegram No. 2.³

My telegram No. 129⁴ shows you line which it is intended to follow here but I cannot yet give definite instructions as M. Briand⁵ in the course of negotiations may find it necessary to modify attitude in certain respects. You can therefore for the present only urge the Chinese to continue to show the utmost possible restraint and to conform to advice which reaches them from here.

Repeated to Foreign Office No. 130 L.N.

¹ Sir M. Lampson flew from Peking to Nanking on October 14.

² This telegram was addressed to Nanking as No. 3, and was repeated as No. 130 L.N. to the Foreign Office, where it was received on October 14 at 7.10 p.m.

³ Not printed. In this telegram Sir M. Lampson enquired whether there were any special line he should take if he saw President Chiang Kai-shek.

⁴ No. 631.

⁵ President of the Council of the League of Nations in succession to M. Lerroux.

No. 633

Mr. Patteson (Geneva) to Sir M. Lampson (Nanking) and Mr. Holman (Peking)

No. 4¹ Telegraphic [F 5721/1391/10]

GENEVA, October 14, 1931

Following from Secretary of State for Foreign Affairs.

In the present circumstances when Council is striving to find satisfactory solution utmost importance no clash should arise between Chinese and Japanese armed forces.

Understand large Chinese forces concentrated at Chinchow. Trust they will not advance towards Mukden as otherwise fear greatly Japanese forces, considering they are endangered, will take offensive measures on plea of defence.

Further trust Chinese authorities will do everything possible to assure safety of Japanese detachments and civilians in zone of line from Peking to Chinchow. M. Briand agrees.

Repeated to Foreign Office No. 131 L.N. and Tokyo No. 3.

¹ This telegram was addressed to Nanking as No. 4 and to Peking as No. 1, and was repeated as No. 131 L.N. to the Foreign Office, where it was received on October 14 at 7.10 p.m.

No. 634

Sir M. Lampson (Peking) to Sir R. Vansittart (Received October 15, 9.30 a.m.)

No. 556 Telegraphic [F 5761/1391/10]

PEKING, October 14, 1931¹

Following received from Mission No. 177 of October 12:—Begins:—

Your telegram No. 519 to Foreign Office.²

My telegram No. 174³ will have apprised you of noticeable easing of the situation due in part to your counsels of moderation and partly to evident awakening of Council and United States to real gravity of the situation.

2. Dr. Rajchman has just been to tell me that Koo has informed Soong and President of your instructions gist of which I infer from your telegram No. 520 to Foreign Office⁴ but text of which has not yet reached me. According to him advice summarised in second paragraph of that telegram has produced consternation and is seriously prejudicing atmosphere of comparative calm which has been noticeable over the week-end.

3. I have sent message to Minister of Finance through Dr. Rajchman intimating that in my personal opinion the action of His Majesty's Government in consultation with you as to eventual solution of crisis was natural and timed to help . . . ⁵ Anyone who had the peace of the East at heart could not do less. At the moment I had had no instructions to give such advice to the Chinese Government. I shall see Minister of Finance this afternoon but in the meantime although I had not seen Foreign Office telegram No. 310⁶ I trust that you will approve my action since I consider it of the utmost importance to keep up the atmosphere of comparative calm which has with considerable difficulty at last been established.

¹ The time of despatch is not recorded.

² No. 604.

³ It has not been possible to trace this telegram in the Foreign Office archives.

⁴ No. 599.

⁵ The text is here uncertain.

⁶ No. 586.

No. 635

Mr. Phillips (Canton) to Sir M. Lampson (Nanking)

No. 78¹ Telegraphic [F 5769/1391/10]

CANTON, October 14, 1931

My telegram No. 121 to Peking.²

I saw Eugene Chen today. He informed me that Hu Han-min having been released,³ delegates for a preliminary conference at Nanking would be

¹ This telegram was addressed to Nanking as No. 78 and was repeated on October 15 as No. 30 to the Foreign Office, where it was received on October 16 at 9.30 a.m.

² No. 614.

³ Mr. Hu Han-min had been held as a political prisoner since February 1931, and was released on October 14, as a result of pressure from the Canton Government.

chosen and would probably leave Hong Kong⁴ on October 17. They would not however have full powers. First point to decide would be future position of Chiang Kai-shek. Canton would agree to leave (? him)⁵ in some military command but not as generalissimo.

Chen said there was risk that Chiang Kai-shek would be desperate enough to declare war on Japan in which case he might retire with his troops to Loyang. Eugene Chen stated that Chiang Kai-shek had no policy towards Japan and that it was senseless to throw everything on to the League of Nations. Pressure by the League would only inflame Japanese military party. He himself was in favour of direct negotiations with Japan as it would have effect of giving much needed support to Japanese Minister for Foreign Affairs in his attempts to curb military party. He described Chiang Kai-shek's latest speech⁶ as a blackmailing threat against League of Nations but he said he did not think Chiang Kai-shek would take immediate action.

Chen also stated that Canton Government had telegraphed yesterday to Nanking requesting Chiang Kai-shek to confirm that all decisions on foreign affairs would be submitted to Canton Government for approval before any action was taken and they were . . .⁷ Chiang Kai-shek's reply. He added that Canton would dominate future unified Government. Above is substance of his . . .⁷ and he asked me to pass it to you.

Repeated to Foreign Office, Peking, Hong Kong.

⁴ Delegates from the Nanking and Canton Governments had been meeting at Hong Kong.

⁵ The text is here uncertain. This word was suggested in the Foreign Office.

⁶ For General Chiang Kai-shek's speech of October 11 see *League of Nations Official Journal*, December 1931, pp. 2493-4.

⁷ The text is here uncertain.

No. 636

Record by Sir J. Pratt of a conversation with Mr. Sze at Geneva¹

[F 6075/1391/10]

GENEVA, October 14, 1931

I had an interview to-day with Mr. Sze at his request. He was anxious that the Secretary of State should know that there was a great deal of propaganda emanating from Japanese sources and assisted by the French Representatives in Tokyo and Peking to the effect that if the League of Nations would only stand aside China would be quite willing to enter into direct negotiations with Japan and the whole incident would be speedily ended. The Chinese Government desired emphatically to deny the truth of these statements. They still insisted that evacuation must precede negotiations. Mr. Sze gave several examples of this sort of propaganda. He also told me a significant story to the following effect: ten days ago he learned from a French source that the French Ambassador in Tokyo had telegraphed to

¹ This record was communicated by Mr. Cadogan to the Foreign Office, where it was received on October 26.

his Government pointing out that Japan was really fighting the battle of all the other Powers for if China were successful in her present appeal to the League she would then bring all the Powers before the League with a view to the abrogation of the Unequal Treaties. Two days ago a French emissary—closely in touch with the French Delegation—asked Mr. Sze if he would give an assurance that China would not bring the Unequal Treaties before the League. Mr. Sze replied that the question was academic because Great Britain had already initialled a Treaty on the subject of extraterritoriality and there could not therefore be any question of referring this matter to the League.

There is some foundation for the Japanese fear that the Chinese, if they feel that they have the backing of the League may adopt an intransigent attitude. In the course of general conversation therefore I strongly advised Dr. Sze that the Chinese Government should continue to maintain an absolutely correct attitude, disclaim all intention of resorting to force and rest their case purely on an appeal to reason. It seemed to be bad tactics to destroy their present strong position by foolish talk of declaring war. The Chinese Government should also consider how they could best make it easy for the Japanese Government to withdraw their troops without loss of face so that negotiations on the main issue could begin. I hinted that unless China could help the League in this way it was just possible that the League might find itself powerless to find a solution. The more the Chinese showed their determination to be reasonable at every stage the stronger would be their position now and the better it would be for them in the long run.

J. T. PRATT

No. 637

Mr. Patteson (Geneva) to Sir R. Vansittart

(Received October 15, 11.15 a.m.)

Unnumbered L.N. Telegraphic [F 5730/1391/10]

GENEVA, October 15, 1931, 11.30 a.m.

Following received from Tokyo.

Addressed to Geneva No. 4, October 15.

My immediately preceding telegram.¹

Japanese War Office have communicated to Military Attaché map, copy of which may be available at Geneva showing clearly widespread distribution and relative number of Koreans and Japanese in Manchuria.

Taken in conjunction with figures mentioned in my telegram under reference of recent murders in South Manchuria map would seem to furnish convincing explanation of necessity from purely military point of view of maintenance of Japanese forces, however limited, outside South Manchurian Railway zone. At the same time I believe that Japanese military action is in fact largely due to hostility to Young Marshal.

¹ See No. 628.

No. 638

Sir R. Vansittart to Mr. Patteson (Geneva)

No. 188 Telegraphic [F 5770/1391/10]

FOREIGN OFFICE, *October 15, 1931, 3.30 p.m.*

Following received by War Office from Military Attaché, Peking, dated October 14.

Signs are being shown by Japanese of extending operations towards Chinchow along Peking-Mukden railway. Many troop movements along line from Mukden in progress and there are indications of public traffic outside Wall being suspended altogether.

New phase said to be dictated by military necessity but real reason the denying of use of line to Chinese troops destined for inside Wall is more likely and accelerate departure of emergency provincial Government at Chinchow.

No. 639

Sir M. Lampson (Nanking) to Mr. Patteson (Geneva)

No. 1¹ Telegraphic [F 5831/1391/10]

NANKING, *October 15, 1931*

In conversation with Acting Minister for Foreign Affairs and the Minister of Finance I have stressed the necessity of avoiding any precipitate action.

Word 'war' should be studiously avoided.

2. Both stressed the reaction which must follow any failure of the League of Nations to do justice to China's case.

Repeated to Foreign Office, Peking, Commander-in-Chief.

¹ This telegram was addressed to Geneva as No. 1 on October 15, and on October 18 was repeated as No. 263 Tour to the Foreign Office, where it was received at 3.14 p.m.

No. 640

Sir M. Lampson (Nanking) to Mr. Holman (Peking)

No. 404¹ Telegraphic [F 5756/1391/10]

NANKING, *October 15, 1931*

Geneva telegram No. 4 to me² second and third paragraphs.

I am getting necessary assurance from Nanking Government meantime please see Young Marshal at once and show him text of this telegram informing him as above.

¹ This telegram was addressed to Peking as No. 404 and was repeated as No. 264 Tour to the Foreign Office, where it was received on October 15 at 11.45 a.m.

² No. 633.

Please obtain:

1. His observations and assurances on both paragraphs and if possible statement of actual numbers of Chinese troops now at Chinchow and assurance that reinforcements are *not being* sent up there.

2. Paragraph 4 raises whole question of Japanese detachments under (? Boxer)³ protocol: and any clash along line would be fatal.

I feel sure Young Marshal has already issued orders to that effect but I should like to be able to reassure Secretary of State.

3. Please consult Military Attaché as to sending a language officer immediately to Chinchow to keep us informed of developments there.

Repeated to Foreign Office, Tokyo, Geneva No. 4.

³ The text is here uncertain. This word was suggested in the Foreign Office.

No. 641

Sir M. Lampson (Nanking) to Sir R. Vansittart¹

(Received October 21, 5.15 p.m.)

No. 267 Tour: Telegraphic [F 5951/1391/10]

NANKING, October 15, 1931

Your telegram No. 4.²

Minister of Finance has just given me the text of telegram despatched to Dr. Sze. Begins:—

Chinese Government gives categorical assurance that they have no intention whatever, before Council ensured evacuation, of advancement towards Mukden from (? Chinchow)³ to which portion of Chinese troops retreated from Mukden area after September 18. Marshal Chang Hsueh-liang as Vice-Commander of National Forces instructed telegraphically to renew strictest orders to this effect. Likewise orders given do everything to assure safety of Japan detachments civilians zone line Peking-Chinchow. But very real danger apprehended from report increasing landing of considerable Japanese forces at Shanhaikuan which Great Wall gateway controlling line of communication from China proper into Manchuria and where stationing foreign military units allowed under Boxer Protocol of 1901. Only Japanese detachment left at present [? since] British withdrawal only⁴ several weeks ago. From beginning of this week Japanese semi-official agencies Tokyo press despatches spreading rumours impending clash at Shanhaikuan whose occupation in force would cut off all Chinese forces outside the Wall creating gravest situation. Chinese Government urging Sir M. Lampson, French and Italian Chargé d'Affaires order back British detachment. Most important France and Italy do likewise. Their troops available at Peking and Tientsin. Ends.

¹ This telegram was repeated to the Foreign Office from Geneva, whence it was despatched on October 21 at 4.26 p.m.

² No. 633.

³ The text is here uncertain.

⁴ It was suggested in the Foreign Office that this word should read 'over'.

2. Regarding the latter part he strongly urged immediate despatch to Shanhaikuan of contingent of British troops however small to act as observers and ensure that there were no faked up excuse for Japanese action there.

Report statement by Japanese Minister of War seemed clearly to foreshadow something, possibly to forestall League of Nations of the kind intervention (*sic*).⁵

My observations follow.⁶

Repeated to Foreign Office, Peking, Tokyo and Commander-in-Chief.

⁵ The text is here uncertain.

⁶ Sir M. Lampson added in his immediately following telegram: 'I thought it wiser not to be too damping, so undertook to transmit for your consideration, observing, however, that for military reasons I knew our military authorities never favoured detachment of small isolated bodies of men anywhere.'

No. 642

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 16, 11.0 a.m.)
Unnumbered L.N. Telegraphic [F 5799/1391/10]

GENEVA, October 16, 1931, 10.50 a.m.

Following received from Nanking No. 266 [Tour].

Begins:—

Addressed to Geneva No. 2 October 15, repeated to Foreign Office, Tokyo, Peking and Commander-in-Chief.

1. I had over an hour's somewhat inclusive¹ conversation with the President this morning. His main object seemed to be to extract from me expression of opinion as to (a) what else anyone could have done if faced with circumstances that arose on September 18 (b) what I thought would be the outcome of the League of Nations session and (c) if the League of Nations failed to alleviate the situation what course should be pursued.

2. As to (a) I commended restraint already shown by China both in abstaining from resistance in original instance, in taking adequate steps to prevent incidents since and in language used in reply to Japanese note on boycott.² I used the opportunity to deprecate as strongly as I could all talk about war. While the President dwelt at length on the prospects in modern states of riding roughshod over public opinion and made it clear that public opinion in China might push the Government to extremes I insisted that Governments [*sic*] in their role of trustee might [*sic* ? must] weigh with the utmost care all the hard facts which extremes implied and should do their utmost to guide opinion away from such dangerous ground.

3. As regards (b) it was impossible for me to predict what League of Nations would do. I emphasized increase in recent years in the League of Nations' prestige and stressed its moral as opposed to physical powers. It was not a policeman but a moral force.

¹ It was suggested in the Foreign Office that this word should read 'inconclusive'.

² This Chinese note of October 12 is printed in *League of Nations Official Journal*, December 1931, pp. 2491-2.

4. When it came to (c) I protested my inability to tread on such dangerous ground. The President emphasized interdependence underlying relations between nations and maintained that other Powers, neighbours in particular, could not remain aloof from developments here. I discerned a disposition to drag the attitude of Russia into discussion but I did not encourage this.

5. In an endeavour to get down to something more practical I put it to His Excellency that clearly what was desirable was to arrive at a point at which both sides could be brought together to discuss mutual differences and endeavour to solve underlying causes of the present state of things; in reply to specific question the President said that essential pre-condition must be return to *status quo ante* and by that he did not mean merely withdrawal to the railway zone.

6. Conversation was cordial and the President seemed to be in excellent health and spirits despite his responsibilities. It was agreed that our conversation should be continued and I told him I was completely at his disposition at any time.

No. 643

Mr. Osborne (Washington) to Mr. Patteson (Geneva)

No. 1¹ Telegraphic [F 5827/1391/10]

WASHINGTON, October 16, 1931

Following for Secretary of State.

Mr. Stimson sent for me this morning. He is much perturbed at intimation received by telephone this afternoon from the United States observer that suggestion may be made tomorrow at Geneva to invite the United States Government to take the initiative in Manchurian question under Kellogg Pact.

This would destroy present united endeavour which has been secured by the presence of United States representative² and would arouse extreme Japanese indignation against the United States and render them hopelessly recalcitrant.

He feels most strongly that initiative should remain with the authoritative group of national representatives now assembled at Geneva which includes a representative of United States. This group is in a better position (quite apart from objections in preceding paragraph) to concert action and devise machinery under Kellogg Pact than he is here, since most important countries are already represented at Geneva by delegates empowered to act for their Governments.

He represented earnestly and forcibly that he had done his best to secure

¹ This telegram was addressed to Geneva as No. 1 on October 16, and was repeated on October 17 as No. 643 to the Foreign Office, where it was received at 9.30 a.m.

² See No. 692 for the acceptance of a seat at the Council table by Mr. Gilbert on October 16.

utmost measure of co-operation with League of Nations and a united front against threat of war. If this unity is destroyed and initiative passed to Washington all his efforts and those of other Powers will have been wasted, and likelihood of failure to avert hostilities immensely increased.

It seems to me that his anxiety and apprehensions are fully justified and I think you should realise that he has displayed great determination and courage in doing what he has done. He is already being attacked in the Press for involving United States in League of Nations activities and foreign controversies. If the result is that initiative is unloaded on him and the United States I fear his critics may work up an agitation that would deprive Washington of all power of further action.

Repeated to Foreign Office telegram No. 643.

No. 644

Mr. Patteson (Geneva) to Sir F. Lindley (Tokyo)

No. 6¹ Telegraphic [F 5834/1391/10]

GENEVA, October 16, 1931

Following from Secretary of State.

My immediately preceding telegram.²

I am anxious that you should do everything possible to bring home to Japanese Government serious nature of issue involved as I see it.

They more than any Power, whether European or Asiatic, have contributed to strengthen authority and prestige of League of Nations since its inception, yet now that an issue affecting them is brought before the League they display disinclination to meet views of an organisation whose interests they with every other Power must be concerned to preserve and strengthen.

Their attitude at discussions which have taken place at Council table has been recently one of definite negation and they have shown no disposition to meet even half way the friendly suggestions which have been put forward to try to compose the difficulty. In this connexion position taken up by Yoshizawa on instructions of his Government as regards admission of an American observer was particularly significant.

I fully appreciate peculiar difficulties of Japanese Government and complexity of the problem with which they are faced in Manchuria. Nevertheless I would ask you to make an earnest appeal to them to show a more helpful attitude.

Example of Japan is being watched by world opinion as a whole and if they should appear to fail in their obligations to League of Nations the consequences would be such as to entail calamitous effects on the world position

¹ This telegram was addressed to Tokyo as No. 6 on October 16, and on October 17 was repeated as No. 138 L.N. to the Foreign Office, where it was received at 11.5 a.m.

² Not printed. See No. 646, note 1.

as a whole besides which particular issue involved in Manchurian problem would sink into insignificance.

I should be grateful if you would submit these considerations to Baron Shidehara with all emphasis at your command since it is of the utmost importance we should come to conclusions and formulate them in resolutions without delay. You should also take this opportunity of recalling to Baron Shidehara obligations they have undertaken under Pact of Paris. I am sure that he will realize in view of the friendly relations which have always existed between our two Governments the spirit which has prompted me to send him this message.

I do not wish to cast any reflection on Mr. Yoshizawa but I am not certain that he always understands all that is said and accordingly he may fail to report to his Government adequately the nature of discussions which have been taking place here.

Repeated Foreign Office, Nanking, Washington.

No. 645

Mr. Holman (Peking) to Sir M. Lampson (Nanking)

No. 121¹ Telegraphic [F 5765/1391/10]

PEKING, October 16, 1931

Your telegram No. 404.²

I saw Young Marshal last night and carried out your instructions. He assured me (a) that Chinese troops would avoid any possibility of a clash and would not fight (b) that Chinese forces at Chinchow would not advance towards Mukden nor be reinforced and (c) that all precautions would be taken to assure safety of Japanese detachments and civilians in zone of line from Peking to Chinchow. Young Marshal stated he had one brigade at Chinchow, one on line in vicinity and one two hundred li distant presumably cavalry brigade round Tungliao. Although he was not at all communicative he drew attention to extremely difficult position in which Chinese troops were placed owing to presence of Japanese forces and bandits.

Military Attaché is telegraphing to Lovat Fraser³ to proceed personally and send Stables³ to Chinchow.

Repeated to Foreign Office and Tokyo.

¹ This telegram was addressed to Nanking as No. 121 and was repeated as No. 572 to the Foreign Office, where it was received on October 16 at 9.30 a.m.

² No. 640.

³ Language Officer in H.M. Legation at Peking.

*Record of a conversation at Geneva between the Marquess of Reading and
Mr. Yoshizawa¹*

[F 6073/1391/10]

GENEVA, October 16, 1931

The Japanese Delegate, Mr. Yoshizawa, came to see me alone at my request. I referred to the very friendly relations that had long existed between our two Governments and therefore wished to discuss matters privately with him in order to seek a way out of the grave difficulties confronting us. I referred to the position his Government had always occupied as one of the great Powers in the League of Nations and I emphasised to him the grave importance of the situation which, if not solved, would not only destroy the influence of the League at this critical juncture of the world position, but would have serious reactions on the Disarmament Conference and the international situation in all its largest aspects.

He said that he quite realised all I was saying and thanked me for my friendly interest, but he had to follow his Government's orders. I said that, for his Government as well as mine and all others, it was imperative to avoid war. His Government had already declared that its aims were in no sense directed to territorial acquisitions; his Government had undertaken to withdraw their troops and had already acted accordingly save in places of importance, where according to them they found it necessary to maintain their position in order to ensure the protection of the lives and property of their nationals. They were not satisfied with assurances of Chinese Government and were not prepared to withdraw further unless they had something in the nature of an additional guarantee which China alone was unable to give. Thus an impasse was created which the League must solve. Further his Government's view was that direct negotiations should take place between them and the Chinese Government on a number of outstanding matters especially including that regarding the railways and also that of the evacuation and the incidents arising from it. I must remind him that the appeal to the League was based on the use of force and the introduction of troops and military operations and that this question must be dealt with by the League and that its very existence was seriously menaced if it failed to bring about the withdrawal of troops etc.

I said that as Representative of the British Government I was most anxious to give and had given every possible consideration to everything that had been put forward on behalf of his Government and I felt sure this was also the case with the other members of the Council. I told him I had not seen the Chinese Delegate except at the Council and had had no conversation

¹ This record was transmitted to the Foreign Office under cover of despatch No. 127 of October 23 from the United Kingdom Delegate at Geneva. A brief account of the conversation was telegraphed to Tokyo in Geneva telegram No. 5 which was repeated to the Foreign Office as No. 137 L.N. of October 17.

with him and therefore in anything I might say it must be understood that I could not speak for the Chinese attitude regarding any suggestions I might make to him.

Let us take first the evacuation. The additional assurance or guarantee required by his Government might be supplied by representatives of some of the Governments Members of the League who were now on the spot or near it being present with the Chinese in order to report to the League or their respective Governments for communication to the League the measures adopted by the Chinese for the protection of the lives and property of Japanese nationals. They would thus be able to see that adequate measures were taken. The Japanese Government had objected to the commission of the League and I understood did not like the idea of representatives of Governments being attached to them for the purpose of reporting to the League. Therefore, in order to meet these views, the proposal might be made that these representatives should be attached to the Chinese authorities and the Japanese Government would thus get the additional assurance. He referred again to direct negotiations and I replied that it might be that I was not in a position to say more as I did not know that the Chinese might be induced to agree to entering into direct negotiations on the outstanding matters once the evacuation had been arranged and had taken place. If this could be effected the Japanese Government would obtain their desired object of direct negotiations. He asked: 'At once?' I replied: 'Yes, practically, because the evacuation could only take two or at most three weeks if proper assurances were given and direct negotiations could then begin.'

He then said he would tell me very confidentially that his Government now felt very strongly on the question of withdrawal and would require satisfactory assurances regarding the protection of the South Manchurian railway. I said this was something quite new. I had studied the representations with care and there was no mention of this requirement and particularly in the agreement they had already made to withdraw.² He admitted this, but indicated that now that was the view his Government took and he added that it might be covered by the stipulation regarding the lives and property of the Japanese. I said we had hitherto understood that what was meant by [*sic* ? was] the lives and property of the civil and military Japanese who were resident at the railway centres such as Mukden and also Kirin which was, I understood, on the feeder railway administered by the Japanese. He asked whether the purpose of the presence of representatives of the Governments might not be extended to cover the protection of the railway which was constantly being attacked. He mentioned that there were some hundred thousand demobilised Chinese soldiers in Manchuria and this caused much injury to the railway property. He said he had numbers of incidents which he could give of quite recent date.

I said he had opened up an entirely new question and I did not myself see how these representatives of Governments could possibly deal with a question

² See paragraph 3 of the Council's resolution of September 30 (*League of Nations Official Journal*, December 1931, p. 2307).

of this magnitude and that I must again point out that this serious qualification of the agreement already made to withdraw must have a bad effect upon all the members of the Council and I begged him not to persist in this demand. He again said he was very sorry but quite understood the position, but he could only act on instructions. He said he would telegraph an account of this interview to his Government and asked me if I would put on paper the substance of the suggestions. He said in substance what I had proposed was what M. Briand had already put to him and he had telegraphed it to his Government with a formula which M. Briand had given him. I told him I had of course discussed this matter with M. Briand on many occasions as we were seeking a solution and I did not know what formula M. Briand had given to him. We had made several drafts and I would ask M. Briand, whom I was now going to see, for a copy and if it were in substance the same there would be no need to give him a document. He agreed and I arranged to let him know when we met at 6 o'clock at the Council.

He then left me after affirmatively answering my question whether I could communicate to M. Briand and Sir Eric Drummond what had passed between us today.

Later I saw M. Briand and told him the substance of the conversation. He gave me a copy of the paper he had given to the Japanese Delegate.³

At 6 o'clock I told Mr. Yoshizawa that I had nothing to add to what M. Briand had given him.

³ It has not been possible to trace this document in Foreign Office archives: cf., however, No. 631.

No. 647

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 17, 4.30 p.m.)

No. 140 L.N. Telegraphic [F 5835/1391/10]

GENEVA, October 17, 1931, 4.15 p.m.

Following from Secretary of State:—

United States representative here came to see me last night. He said that he had telegraphic communication with Mr. Stimson regarding procedure at the Council yesterday evening.¹ Mr. Stimson under the circumstances expressed surprise and regret that Pact of Paris had not been formally 'invoked'. It had not been clear to me nor I think to others that Mr. Stimson would lay especial stress on this. In any case the United States representative said that Mr. Stimson had left him with the clear impression if things were to proceed smoothly there would have to be an 'invocation' on [*sic* ? of] the pact and that this invocation must come from Geneva.

I explained that I had been asked at short notice to say a few words of greeting to the United States representative at the Council table making reference to the Pact of Paris which I had done. I had contemplated saying

¹ See *League of Nations Official Journal*, December 1931, pp. 2335–8.

more on the subject of the Pact but had refrained feeling that it might be embarrassing to Mr. Stimson himself. I was anxious to do anything that might meet Mr. Stimson's wishes. The only difficulty was to find proper method of giving effect to my desire.

I am consulting M. Briand and Signor Grandi on the matter of disposition [*sic*]. The kind of procedure that I think would . . .² the case would be for Governments members of the Council to make representations in Tokyo and Washington [*sic* ? Nanking] drawing attention of the two Governments formally to Article 2 of the Pact. It would then be necessary to devise some way of making this invocation appear to come 'from Geneva'. It might be possible for the President of the Council to announce that certain Governments members of the League being also signatories of the Pact of Paris have as a result of examination of the present case under Article 11 of the Covenant come to the conclusion that it was necessary to call the attention of the two Governments to Article 2 of the Pact.

The United States representative asked me to regard what he told me as a personal message from Mr. Stimson to myself. Mr. Stimson had said that he would not say anything on the subject to His Majesty's Ambassador.

I am convinced of the necessity of doing everything possible to secure the wholehearted collaboration of United States Government and I therefore asked the United States representative to tell Mr. Stimson at once that I would do all in my power to assist.

I am prepared to ask His Majesty's representative[s] at Nanking and Tokyo direct from here to take necessary action and shall hope to get M. Briand and Signor Grandi to do the same. Of course I prefer to act in unison with them but attach so much importance to Mr. Stimson's personal request that I am ready to act alone. Members of the Council . . .³ could presumably only undertake to recommend to their Governments to take similar action.

Repeated to Washington No. 3, Tokyo No. 7 and Nanking No. 8.

² The text is here uncertain.

³ Another text here read: ' . . . Council who are not concerned could . . . '.

No. 648

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 17, 9.0 p.m.)

Unnumbered L.N. Telegraphic [F 5841/1391/10]

GENEVA, October 17, 1931, 7.25 p.m.

Following received from Nanking No. 271A [Tour]. Begins.

Addressed to Geneva No. 5 October 16, repeated to Foreign Office, Tokyo, Commander-in-Chief and Peking.

My telegram No. 2.¹

At the President's request I saw him secretly and most informally again on October 16. In the course of conversation I informed him of the three

¹ See No. 642.

points constituting solution for which M. Briand was working (see your telegram No. 129 to Foreign Office²) explaining that I had as yet received no instructions, that the formula only reported lines on which solution was being sought and that it remained to be seen whether and how far agreement could be reached on such lines. I invited President's observations informally and without commitment and he replied after due consideration that (1) and (2) were obviously acceptable and that as regards (3) he saw no objection to direct negotiations on fundamental issues *after* restoration of *status quo ante* September 18 but that the League of Nations should be . . . ly³ both sides rights under the Covenant. Later on in the course of general discussion concerning Council proceedings he urged the importance of your French colleague sending observers to Manchuria *now* to watch what was going on; this would have a most calming effect on the public and make it much easier to preserve peace pending the outcome of the League of Nations discussion.

² No. 631.

³ The text is here uncertain.

No. 649

Mr. Patteson (Geneva) to Sir F. Lindley (Tokyo) and Sir M. Lampson (Nanking)

No. [? 9]¹ Telegraphic [F 5838/1391/10]

GENEVA, *October 17, 1931*

Following from Secretary of State:—

Please make following communication to Government to which you are accredited.

'His Majesty's Government have followed with anxiety the development of events in Manchuria which since September 18 have created a disquieting situation between China and Japan. This situation has already been laid before the Council of the League of Nations, which is making active efforts to arrive at a settlement, and in these efforts His Majesty's Government's representative is associated. His Majesty's Government further consider it to be their duty to call the attention of the Japanese [and] Chinese Governments, co-signatory with itself of the Pact for the Renunciation of War of August 27, 1928, to the provisions of the Pact, and especially to Article II by which "the High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them shall never be solved except by pacific means". Public opinion throughout the world expects the two Governments to adhere to the undertaking thus assumed. His Majesty's Government is confident that this hope will not be disappointed, and that the two Govern-

¹ This telegram appears to have been addressed to Tokyo as No. 9 and to Nanking as No. 10, and was repeated unnumbered to the Foreign Office, where it was received on October 18 at 10.0 a.m.

ments concerned, bearing in mind the scope of this solemn undertaking and of the obligations thereby imposed upon them towards the other signatories of the Pact, will be careful to refrain from taking any steps that might endanger the success of the efforts already in progress to secure the settlement by peaceful means of the conflict that has arisen between them.²

Repeated to Foreign Office and Washington.

² Sir M. Lampson reported in his telegram No. 12 to Geneva and No. 278 Tour to the Foreign Office that he had acted on these instructions on October 19, and he transmitted a copy of his note to Dr. Lee under cover of his despatch No. 174 Tour from Nanking of the same date.

No. 650

Mr. Holman (Peking) to Sir M. Lampson (Nanking)

No. 124¹ Telegraphic [F 5871/1391/10]

PEKING, October 17, 1931

Following is paraphrase of report from Mr. Stirling dated October 15.

From what we have seen we have gained general impression that situation in Manchuria has reached a deadlock. Japanese military authorities have full control locally and their action from their point of view is more or less logical.

Japanese forces are making preparations to stay in positions occupied for the winter.

They believe situation² impossible as they think danger to Japanese life and property would thereby be increased. This is quite likely true to a certain extent.

There does not exist in South Manchuria as far as we are aware any organized force of Chinese of any size which would maintain order. Particularly in regions outside Japanese control disorganised detachments of Chinese troops are living on the country.

Extensive bandit menace is not denied.

On the other hand it seems clear definite orders have been given to Japanese commanders from Tokyo to refrain from proceeding outside positions now occupied. In any case they agree that no effective protection could be given to Koreans in the interior.

According to Japanese themselves it is unlikely that Chinese will be able to restore order at present nor will they be likely to be able to do so if the present attitude is maintained by the Japanese army. Clearly Japanese look upon the present situation as little less than a state of war (that was the word they employed more than once to us).

¹ This telegram was addressed to Nanking on October 17 as No. 124, and on October 18 was repeated by wireless as No. 575 to the Foreign Office, where it was received on October 19 at 9.30 a.m.

² Another text here read 'withdrawal'.

They are apt to regard anything like concentration of Chinese troops as a menace to their position and to proceed to disperse it should it be anywhere in the vicinity (compare raid on Chinchow). Kirin seems to be only exception where General Hsi An-fu is being permitted to establish a small force for the purpose of maintaining order in the district, but beyond doubt he is powerless unless Tokyo and Nanking can reach an agreement which would provide for re-establishment in South Manchuria of some Chinese armed force or local administration is constituted with direct or indirect backing of the Japanese. Result of existing situation is trade stagnation and an increase each day of bandit danger in the interior.

Repeated to Foreign Office and Tokyo.

No. 651

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 18, 9.0 a.m.)

No. 141 L.N. Telegraphic [F 5836/1391/10]

GENEVA, October 18, 1931, 6.0 a.m.

My telegram No. 140.¹

Following from Secretary of State.

Private meeting of Council was held this morning² without Chinese and Japanese representatives and with United States observer. I found an opportunity of suggesting desirability of taking some step at Tokyo to impress on the Japanese Government the gravity of the present situation. I recalled that both parties had been formally reminded of their obligations under the Covenant and suggested that in some way their attention should be directed to Article 2 of Pact of Paris. I said I was ready myself to instruct our representatives at Nanking and Tokyo to make a *démarche* in this sense, and M. Briand and Signor Grandi said that they would do the same. All other members agreed to ask their Governments to authorize them to do likewise.

It was agreed that text of a communication should be drafted and submitted to the Council at a further private meeting this evening. The idea would be that the communication should be made in the name of individual Governments but should emanate from here. United States representative at the meeting expressed the conviction that his Government would view with approval action proposed.

As regards the situation itself M. Briand could only inform his colleagues that he had been unable to make much progress. He had put to the Japanese delegate as a suggestion of his own, that to meet the Japanese demand for security in evacuated areas neutral officers should be attached to Chinese local authorities to watch and report on transfer of authority. Japanese delegate had referred to his Government but had not yet received a reply.

M. Briand said it was clear that the Japanese were trying to secure that direct negotiations on the matter in dispute should begin before they had

¹ No. 647.

² This telegram was drafted on October 17.

evacuated. He thought that if pledge of evacuation could be secured in exchange for assurance afforded to the Japanese by the presence of neutral officers, and if a definite date say three or four weeks hence was fixed for complete evacuation it might be possible to induce the Chinese to begin direct negotiations before expiry of that period. I expressed doubts as to wisdom of any pressing of Chinese to accept direct negotiations before the expiry of evacuating period.

First draft of a resolution dealing with evacuation and with direct negotiations on matters in dispute will come before the Council at this evening's session.

Repeated to Nanking, Tokyo, Washington.

No. 652

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 18, 11.30 a.m.)

Unnumbered L.N. Telegraphic [F 5840/1391/10]

GENEVA, October 18, 1931, 11.40 a.m.

Following received from Nanking No. 273 [Tour]:—

Begins:—

Addressed to Geneva No. 7 of October 17; repeated to Foreign Office, Tokyo, Commander-in-Chief.

Consular reports from different parts of the country indicate widespread and spontaneous nature of anti-Japanese manifestations and severity of economic boycott.

I have made special point of impressing on President and members of the Government and other influential Chinese here that they must give no handle for accusation that boycott movement is officially inspired or in any sense encouraged or connived at.

Ends.

No. 653

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 18, 12.30 p.m.)

Unnumbered L.N. Telegraphic [F 5842/1391/10]

GENEVA, October 18, 1931, 11.40 a.m.

Following received from Nanking No. 274 [Tour] (to Foreign Office). Begins.

Addressed to Geneva No. 8 of October 17. Repeated to Foreign Office and Peking.

According to absolutely reliable information M. Briand has approached Nanking Government secretly through Alfred Sze as to whether they could accept initiation of direct Sino-Japanese negotiations if evacuation were

being effectively carried out under aegis of League observers, it being understood that evacuation was in no way a pre-condition of negotiation.

2. Reaction of Chinese Government to this is said to be that they will go [to] their utmost limits to help the Council in achieving a solution but owing to weakness of internal political situation it would be very difficult for them to abandon publicity [*sic* ? publicly] at this stage, standpoint they have taken that full satisfaction is to be obtained from League and that evacuation is a pre-condition of direct negotiation; further they are said to have drawn M. Briand's attention to the fact that Russia is undoubtedly watching her opportunity to demonstrate to the world the ineffectiveness of the League to deal with Far Eastern affairs. Attitude of Chinese Government was described as conciliatory and not closing the door to M. Briand's proposal as an eventual solution but as turning it down as an immediately practical proposition.

3. Railway from unofficial sources of their own have received outline of basis upon which Japan is prepared to negotiate directly viz: (a) Mutual desistance from fostering hostile combinations e.g. independent movements in Mongolia and Manchuria. (b) Mutual suppression of conflagration e.g. boycotts, demonstrations, etc. (c) Reassertion of China's sovereign rights and territorial independence including Manchuria. (d) Japanese rights to settle and trade in Manchuria under Chinese guarantee of protection. (e) No railway arrangements which would interfere with or prejudice South Manchurian Railway.¹ While no difficulty is anticipated over the first three the last two conditions are construed as re-affirmation of 1915 agreements.

4. It is possible that Your Lordship is already aware of the above developments but [I] report them to make sure. An effort is being made to obtain my reaction to them and I have so far confined myself to letting the Chinese know privately and informally my own personal view regarding direct negotiation under a neutral observer: see my telegram of October 15.²

5. I should be glad of any instructions you may see fit to give me. (See my telegram No. 2 from Peking³ of October 14th.)

¹ The United Kingdom delegation at Geneva transmitted to the Foreign Office under cover of their despatch No. 128 the following version of these five points, as communicated to M. Briand by Mr. Yoshizawa on October 14:

'1. Mutual declaration not to resort to aggressive policy or action.

'2. Mutual engagement to take every possible measure for the suppression of hostile agitation.

'3. Reaffirmation by Japan of her settled intention to respect the territorial integrity of China including Manchuria.

'4. Undertaking by China to extend efficient protection to Japanese subjects residing in any part of Manchuria and carrying on any peaceful pursuits.

'5. The two Governments to cause necessary arrangements to be concluded between the Japanese and Chinese railway administrations for the prevention of ruinous competition and for the carrying into effect of the existing Sino-Japanese Treaty provisions relating to railways in Manchuria.'

² The reference is probably to No. 642.

³ Not printed. See No. 632, note 3.

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 18, 4.20 p.m.)

No. 143 L.N. Telegraphic [F 5837/1391/10]

GENEVA, October 18, 1931, 1.20 p.m.

My telegram No. 141.¹

United States representative this afternoon² told me³ that Mr. Stimson attached great importance to immediate invocation of Pact of Paris and that he would be satisfied if four Ministers for Foreign Affairs here present would act at once from Geneva without waiting for other members of Council.

Draft telegram was submitted to private meeting of Council this evening and I and French, Italian and Norwegian Ministers for Foreign Affairs agreed to telegraph at once in those terms to Chinese and Japanese Governments through our respective representatives in Nanking and Tokyo. German delegate stated that he had just received authorization from his Government to take similar action. I am therefore sending to Nanking and Tokyo telegram⁴ which is repeated in my 'en clair' telegram of today. And French, Italian, German and Norwegian delegates are sending identic telegrams to their representatives. Other members of Council are recommending their Governments to take similar action immediately.

United States representative had asked that those who took this action should immediately notify all other signatories of the Pact of Paris including United States Government who wished for no special or separate notification. It was agreed that it would be unnecessary for all five delegates who were taking action to notify separately all other signatories and M. Briand undertook to make this notification indicating to all signatories governments of [*sic*] which were taking action.

Press is being informed tonight that in the course of Council deliberations this afternoon it was agreed that the Pact of Paris to which reference had already been made in earlier proceedings should now be formally invoked and that . . .⁵ Government has already taken necessary steps.

As regards general situation little progress can be reported. M. Briand informed the Council that Japanese delegate had told him that his Government could not accept proposal regarding neutral officers but it seemed to him that Japanese delegate had not represented the matter clearly to his Government who were under the impression that League Commission was still contemplated.

First draft resolution embodying Council's conclusions was circulated to members of the Council at the close of the meeting this evening and will come up for discussion at private meeting eleven o'clock tomorrow morning.

Repeated to Tokyo, Nanking and Washington.

¹ No. 651.

³ i.e. Lord Reading.

⁵ The text is here uncertain.

² This telegram was drafted on October 17.

⁴ No. 649.

No. 655

Mr. Patteson (Geneva) to Sir R. Lindsay (Washington)

No. 7¹ Telegraphic [F 5844/1391/10]

GENEVA, October 18, 1931

Following from Secretary of State:—

Your telegram No. 1.²

I hope my telegram to Foreign Office No. 143³ will have shown that our chief preoccupation was to do all that might be possible to fall in with Mr. Stimson's wishes and to remove so far as lay in our power any unnecessary difficulty that he might have to encounter in taking the very important step of allowing a representative to sit at the Council table.

Please give Mr. Stimson message from me in the above sense adding that there was never any intention of leaving him to take the sole initiative. Any impression that he may have gained to that effect is simply based on misunderstanding. He can rely on me to maintain the closest possible co-operation with him and his representative here.⁴

Repeated to Foreign Office No. 145.

¹ This telegram was addressed to Washington as No. 7 on October 18, and on October 19 was repeated as No. 145 L.N. to the Foreign Office, where it was received at 9.30 a.m.

² No. 643.

³ No. 654.

⁴ Mr. Osborne carried out these instructions in a letter to Mr. Stimson of October 19, which is printed in *Foreign Relations of the United States 1931*, vol. iii, p. 258.

No. 656

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 19, 10.10 a.m.)

No. 144 L.N. Telegraphic [F 5868/1391/10]

GENEVA, October 19, 1931, 9.5 a.m.

Following from Secretary of State.

Draft resolution referred to in the last paragraph of my telegram No. 143¹ was submitted to private meeting of Council this morning² (Chinese and Japanese delegates of course do not attend these private meetings).

Council agreed to resolution in form of which the following is summary.

The Council: 1. Requests parties to do all in their power to hasten restoration of normal relations between them, assumes that neither will resort to aggressive policy and that they will take every possible measure to suppress hostile agitation.

2. Notes the assurances of Japanese Government that they will withdraw into railway zone as rapidly as possible when safety of Japanese lives and property is assured and of Chinese Government that they will assume responsibility for Japanese lives and property outside that zone.

3. Notes assurance of Japanese Government that they have no territorial

¹ No. 654.

² This telegram was drafted on October 18.

designs in Manchuria and refers to obligations under Article X of Covenant and Nine Power Treaty to respect the independence and integrity of China.

4. Considers normal relations cannot be adequately secured until Council resolution of September 30 has been fully executed.

5. Calls on Japanese Government to complete withdrawal of troops into railway zone within a maximum period of three weeks (duration of period is provisional).

6. Calls on Chinese Government to make such arrangements as will ensure safety of Japanese lives and property in evacuated territory and requests Chinese Government to associate with Chinese authorities superintending evacuation (? and)³ representatives of other Powers who shall follow execution of arrangements.

7. Recommends that the two Governments should immediately appoint representatives to arrange details of execution of all points relating to evacuation and taking over of evacuated territory.

8. Recommends that on the day when evacuation is completed direct negotiations should begin on all questions outstanding between the two Governments including especially questions arising out of recent incidents and out of controversies regarding railway situation in Manchuria.

Original draft concluded with paragraph to the effect that of course both parties during these negotiations would retain their rights under Covenant but this has been taken out and will be inserted in statement to be made by President.

Above is confidential as draft resolution has not yet been communicated to parties.

There will be public meeting of Council tomorrow morning at which parties will be called upon to define their respective positions. If as is to be expected it is plain that deadlock continues it will be decided that Council will have to formulate its own proposals for a settlement. Resolution will then be communicated to both parties privately and efforts will be begun to induce them to accept it with the least possible changes.

Repeated to Washington, Nanking, Tokyo.

³ The text is here uncertain.

No. 657

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 19, 12.0 noon)

Unnumbered L.N. Telegraphic [F 5870/1391/10]

Following received from Tokyo.

GENEVA, October 19, 1931, 11.40 a.m.

Addressed to Geneva No. 10 [? 9] of October 19 and Peking.

Your telegram No. 9.¹

I presented note this morning to Minister for Foreign Affairs who had already received similar note from French Ambassador last night.

¹ The reference is presumably to No. 649.

He gave assurance that Japanese Government would not resort to other than peaceful measures but stated that they could not regard as peaceful the boycott and other anti-Japanese action of Chinese authorities. He trusted that Powers held the same view and would impress it on Nanking. Japanese Government had sure secret information that Chinese authorities were countenancing anti-Japanese movement.

No. 658

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 19, 4.45 p.m.)

Unnumbered L.N. Telegraphic [F 5876/1391/10]

GENEVA, October 19, 1931, 4.10 p.m.

Following received from Tokyo.

Addressed to Geneva telegram No. 9 [?10] of 19th October, repeated to Peking.

My immediately preceding telegram.¹

I then read to Minister for Foreign Affairs most of your telegram No. 6² and did my best to impress upon him the gravity of the issue. He defended the Japanese action at Geneva by saying the proposals hitherto made had been impossible for any Japanese Government to accept. The conversation went over much of the ground reported in my telegram No. 7.³

2. We then discussed your telegram No. 5.⁴ As regards paragraphs 4, 5 and 6, Minister for Foreign Affairs declared . . .⁵ that the Japanese Government would not accept a proposal to evacuate before direct negotiations began nor could any Japanese Government remain in office which agreed to evacuate by date fixed in advance. Public opinion was in a very excited condition and would not tolerate either proposal. In this connexion I have just heard from a reliable source that ten Japanese staff officers have been arrested for a plot to assassinate the Minister for Foreign Affairs.

3. As regards presence of delegates of the Powers in Manchuria Minister for Foreign Affairs did not like the idea and argued that their presence could afford no additional guarantee to Japanese life and property. I told him that if proposal were put forward Japanese Government must accept it. There would be no valid reason for not doing so. I am inclined to think Japanese Government would accept it if they were assured of direct negotiations prior to evacuation. In short I am forced to conclude suggestion put forward in my telegram No. 6⁶ offers the only solution.

4. Public opinion here is in a very dangerous state and quite capable of forcing the Japanese Government to disregard the resolutions of the League.

¹ Cf. No. 657.

² No. 644.

³ See No. 693, paragraph 10.

⁴ Not printed. See No. 646, note 1. Paragraphs 4, 5, and 6 of this telegram corresponded to the fourth paragraph of No. 646.

⁵ The text is here uncertain. Another text here read: ' . . . declared solemnly that . . . '.

⁶ See No. 624, note 1.

Such action would probably be justified by the allegation that the Council had broken the Covenant by inviting America to sit against the vote of the Japanese delegate. This is regarded as showing that the Council are exercising pressure on Japan. Minister for Foreign Affairs told me that he had done all he could to combat this idea because if undue pressure were suspected the position would become 'terrible'. I used all possible arguments to prove that the invitation was not a form of pressure and that the Japanese Government had been ill-advised to oppose it.

No. 659

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 19, 4.50 p.m.)

Unnumbered L.N. Telegraphic [F 5875/1391/10]

GENEVA, October 19, 1931, 4.10 p.m.

Following received from Tokyo.

Addressed to Geneva telegram No. 11, of October 19, repeated to Peking. My immediately preceding telegram.¹

I asked Ministry of Foreign Affairs what was meant by point raised in paragraph 7 of your telegram No. 5.² I found that it was an allusion to special rights against competition the line enjoyed by virtue of agreement of 1905. I said I had always understood this was one of the principles which the Japanese Government wished first to discuss in negotiations with the Chinese. It had nothing to do with evacuation. After some discussion I came to the conclusion that what Minister for Foreign Affairs had in mind was that this point would have to be settled by assurances of negotiation before final evacuation took place. Naturally he did not say so but reiterated the statement reported in my telegram No. 7³ that the Japanese Government did not intend to use the presence of their troops as lever pending negotiation.

Summary (? Suggestion)⁴ in the last paragraph of your telegram No. 6⁵ is very likely correct. Even Minister for Foreign Affairs who is a master of English sometimes fails to understand what is said.

¹ Cf. No. 658.

² Not printed. This paragraph corresponded to the fifth paragraph of No. 646.

³ See No. 693, paragraph 10.

⁴ This emendation was suggested in the Foreign Office.

⁵ No. 644.

Mr. Patteson (Geneva) to Sir R. Lindsay (Washington)

No. 9¹ Telegraphic [F 5912/1391/10]

GENEVA, October 19, 1931

Addressed to Washington telegram No. 9 of October 19.

Following from Secretary of State:

United States representative here came to see me this evening by directions from Mr. Stimson. I am most anxious that nothing should leak out regarding this matter except between you and Mr. Stimson. I spoke to Mr. Stimson on telephone and read following communication to him:

'Mr. Gilbert has just informed me of your instructions to him to withdraw from Secret Sessions of Council and at next public meeting to withdraw, after making statement regarding withdrawal and before end of meeting, on the ground that desired objective had been reached. I most earnestly beg you to withdraw these instructions which will be regarded, whatever explanation may be given, as disapproval of discussions now proceeding and to extent that you will not even allow your representative to sit at table in accordance with terms of your acceptance of invitation. Both invitation and acceptance were publicly announced and were made subject of congratulatory speeches by members of Council. Nothing could possibly remove this opinion. Above all, effect on various Governments represented at Council and on world generally will be disastrous. I cannot refrain from using this word. It will be said that you accepted invitation in most gracious terms and then, almost immediately thereafter, withdrew. It will be plain that objection other than invocation of Kellogg Pact confronted League of Nations [*sic*]² as with the exception of invocation of Kellogg Pact nothing has happened except discussions for purpose of reaching conclusions which both Japanese and Chinese Governments could accept. I have not yet dared to mention matter to M. Briand or of course to any other member of Council. Withdrawal of your representative will have serious affect [*sic*] on M. Briand's position and may even cause his fall as Foreign Minister. Bear in mind also effect upon Disarmament Conference, for which preparations are being made, and especially at this moment when British Government as well as all other Governments are most deeply interested in visit of M. Laval to Washington and its possible effect upon the world's financial and political situation.'³

¹ This telegram was addressed to Washington as No. 9 on October 19 and was repeated on October 20 as No. 147 L.N. to the Foreign Office, where it was received at 2.50 p.m.

² The text here appears to be corrupt. See, however, the record of this conversation printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 248-58, where the equivalent passage reads: '... that the objective other than the Kellogg Pact cannot be reached with the exception ...'.

³ For the preliminaries of the League of Nations Disarmament Conference, see Volume III of this Series, Chapter IV, and for the visit to Washington of M. Laval, French President of the Council, see Volume II of this Series, Chapter V.

Mr. Stimson replied that it had become necessary to take this step because of the situation with Japan who are concerned about the United States sitting with the Council and also in secret session when Japan and China were not present to concert measures to be taken to bring about settlement of the Manchurian affair. He said that presence at the table after it had been decided to invoke the Kellogg Pact would prejudice any efforts the United States might make to co-operate with the Council in influencing Japan.

In addition American public opinion was stirred by the United States representative continuing to sit with the Council after the Kellogg Pact had been invoked and when discussion was proceeding upon the action to be taken by the Council of the League. I read from the American letter of October 12 [16]⁴ the following: 'you extend invitation in accordance with the proposal to Government of the United States to send a representative to sit at the Council table so that he may be in a position to consider with Council relationship between provisions of Pact of Paris and summary of (*sic*) present unfortunate situation in Manchuria and at the same time to follow deliberations of Council with regard to other aspects of problem with which it is now confronted. We are directed by text [*sic*] to accept on behalf of Government of United States.' I pointed out that there were two objectives: (1) Kellogg Pact and (2) Other aspects of problem. After I had explained grave embarrassment that would be caused by public statement of withdrawal he insisted upon difficulties created abroad by United States representative sitting at secret sessions and said that at least he must withdraw from secret sessions at once. I pointed out that secret session would probably take place tomorrow that United States representative had attended one today and that later within forty-eight hours there would be public session. I suggested that in order to meet his views and to mitigate our difficulties he should consent to representative attending secret session tomorrow and public sessions thereafter and that he should not be invited to attend further secret sessions. This change need not occasion any public announcement which we must avoid. Mr. Stimson agreed to this course as regards secret sessions, but required that at attendance at public meeting, after Japanese representative had made statement and received reply, American representative should withdraw from the table and take his place anywhere else as an observer. I pointed out that sensation would be caused and pressed that United States representative should remain in his place until end of meeting and thereafter should attend public meetings not sitting at Council table but as an observer. Mr. Stimson said he was anxious to do all he could to protect me and would expect me to protect him and that he would for this purpose consent to this course. I said I would do all I could to help him when he might require my assistance.

I was to communicate substance of this conversation to his representative here.

⁴ This letter of October 16 from Mr. Gilbert to M. Briand is printed in *League of Nations Official Journal*, December 1931, pp. 2335-6.

Sir W. Selby (? assisted at)⁵ telephonic conversation which lasted considerable time and I could not always hear Mr. Stimson fully. There was no doubt as to final arrangement which I repeated to him and received his assent. I thanked him cordially for meeting my views. My impression at conclusion was that he gave way most reluctantly.

As communication on telephone was imperfect it might be well for you to see Mr. Stimson and repeat substance but I leave this entirely to you. You may think it wiser to leave it alone until Mr. Stimson speaks to you.⁶

Repeated to Foreign Office No. 147.

⁵ The text is here uncertain.

⁶ With reference to this telegram, Sir R. Lindsay reported on October 20 in his telegram No. 3 to Geneva (repeated to the Foreign Office as No. 650): 'Your account accords exactly with what Mr. Castle told Mr. Osborne immediately after your telephone conversation with Secretary of State.'

No. 661

Sir M. Lampson (Nanking) to Sir R. Vansittart
(Received October 19, 8.30 p.m.)

No. 280 Tour: Telegraphic [F 5874/1391/10]

NANKING¹

Following received from Shanghai No. 149 of October 19 to Peking.

Addressed to His Majesty's Minister at Nanking, repeated to Peking No. 149, Foreign Office ²

Anti-Japanese disturbances have been occurring recently in the Settlement and the adjoining areas. Hitherto they have taken place in the Japanese residential districts in the East and North but yesterday rioting broke out in the Western district Settlement where there are Japanese factories. The trouble followed a meeting of students and workmen who were inflamed by anti-Japanese and communist agitators. The mob then attacked two Japanese Municipal Police who were rescued by a squad of police under three British officers. The latter held the mob at bay with drawn pistols until reinforcements arrived.

Rioting continued for several hours. Police reserves were called out and several baton charges made before order was restored.

Japanese marines in armoured cars were much in evidence and the senior British police officer present tells me an armed clash at times seemed imminent. He saw Japanese marines dash into Chinese houses with drawn pistols and others chase the mob carrying a machine gun.

Account in today's 'North China Daily News' is substantially correct.

A number of rioters were injured but there was no death. It seems only a

¹ This telegram was sent from Nanking via Geneva, whence it was despatched on October 19 at 7.0 p.m.

² The text is here uncertain.

matter of time, however, before a fatal incident occurs. A great strain is being put upon the Municipal Police and especially the British personnel. The Chinese and Indian constables are so far loyal but they will not act without leadership and responsibility devolves on the British officers and sergeants to act as a buffer between the Chinese on the one hand and the Japanese marines on the other hand whose attitude is distinctly provocative. Ends.

No. 662

Sir M. Lampson (Nanking) to Mr. Patteson (Geneva)

No. 15¹ Telegraphic [F 5950/1391/10]

NANKING, October 19, 1931

Appreciation of present position.

1. Japan holds all South Manchuria and will not budge until she has thereby forced from China all that she wants. This according to Chinese sources would practically reaffirm Agreements of 1915 and would be obtained by the same methods of force. Japan may add other demands involving settlement of all outstanding questions such as debts, extra-territoriality, etc.

2. China realizes she cannot stand up to Japan and has accordingly adopted purely passive attitude thereby strengthening her case under the Covenant of the League and Kellogg Pact. Meantime nation-wide movement has developed for economic pressure upon Japan and this is gaining daily in intensity and effectiveness. As some forty per cent. of Japan's export trade is with China this economic pressure is a strong weapon. You cannot force people to buy what they do not want. Falling trade means less employment: unemployment at big industrial centres may lead to internal agitation. It is worth noting that economic pressure has been effective against Japan before—cf. indefensible² incident of 1928 when (though in my opinion Japan was on that occasion right) effect was such that troops were withdrawn, Tanaka Government suffered a setback and ultimately resigned.

3. My United States colleague and my French colleague and I have been asking ourselves if we cannot help to find some way out of present *impasse*. I have taken the line that it is premature and probably dangerous for us here to make concrete suggestions yet. But we might think things out. Meanwhile Japanese screw in Manchuria and Chinese screw through economic pressure would be working one against another thereby showing each side that neither is entirely defenceless. Provided there were no explosions (which we were concentrating on preventing) this might help to bring the two pots

¹ This telegram was addressed to Geneva as No. 15 on October 19, and was repeated thence on October 20 as No. 281 Tour to the Foreign Office, where it was received on October 21 at 9.30 a.m.

² It was suggested in the Foreign Office that this word should read 'Tsinan'. For this incident see No. 1, note 29.

off the boil and some desire for a workable compromise might begin to form in their respective minds.

4. My only idea so far—and I am not sure about it—is possibility that (a) China might modify her rigidity over pre-evacuation, (b) Japan might slacken regarding presence of Chinese (or outside) observers during direct main negotiations. But the President's language to us up to date is not encouraging as regards (a); nor am I convinced that it would assist China: for at any moment during negotiations Japan might increase pressure of the screw by tightening up occupation: in fact China would be negotiating with a tiger already on her back.

5. For the moment we await developments and I merely throw out above suggestion for possible consideration if and when the necessity arises.

Repeated to Foreign Office, Peking, Commander-in-Chief.

No. 663

Sir M. Lampson (Nanking) to Mr. Patteson (Geneva)

No. 17¹ Telegraphic [F 5908/1391/10]

NANKING, October 19, 1931

Shanghai telegram No. 149 to Peking.²

There is obvious danger that Chinese and Japanese may take advantage of neutral territory of International Settlement to vent their feelings against one another. But after consultation with my United States colleague we have decided that ground is too tricky for formal representations to Chinese Government. I have therefore confined my action to representations to municipal authorities (see my telegram No. 74 to Shanghai³). Should suitable opportunity arise I may be able to put in a word with President or Soong and Your Lordship may consider it desirable to urge discretion at Tokyo—see last sentence of Shanghai telegram under reference.

Repeated to the Foreign Office and Shanghai.

¹ This telegram was addressed as No. 17 to Geneva, whence it was repeated as No. 283 Tour to the Foreign Office, where it was received on October 20 at 6.40 p.m.

² See No. 661.

³ No. 669.

No. 664

Memorandum by Viscount Cecil (Geneva)¹

[F 6091/1391/10]

GENEVA, October 19, 1931

The question has been raised what methods of pressure, moral or material, are open to the Council if the Japanese should finally refuse or fail to evacuate

¹ A copy of this memorandum was communicated to Sir W. Selby under cover of a letter of October 23 from Mr. Cadogan, to whom it had been handed by Lord Cecil.

the Chinese territory beyond the railway zone. On the evening of the 18th October a meeting was held in Lord Cecil's room at the Beau Rivage Hotel to discuss this question. There were present: Monsieur de Madariaga,² Monsieur Colban,³ Monsieur Massigli and Lord Cecil.

(1) Since the appeal of the Chinese is under Article 11 of the Covenant, the powers of the Council under that article were first considered. These were the subject of investigation by a sub-committee presided over by M. de Brouckère in 1927. In the de Brouckère report⁴ there is a series of suggestions as to what can be done both in the case where no danger of immediate war exists and in the case where such a danger is present. The suggestions ranged from admonitions by the Council to the use of naval or aerial demonstrations and the withdrawal of diplomatic representatives from any country which is in default. There is one weakness, however, in all the suggestions, namely, that under the terms of Article 11 they can only be operated by a unanimous vote of the Council including the parties to the dispute. This is clear from the terms of Article 5 (1). It would seem, however, open to any Power at any time to withdraw its diplomatic representative from another country and this has been frequently done to express formal disapproval. It was, therefore, thought that the 13 Powers represented on the Council, apart from Japan, might, if they chose, simultaneously withdraw their representatives from Tokyo. It was suggested that this would be rather straining their rights in view of the fact that they constituted, with Japan, the Council and that they must, therefore, act under the powers of Article 11 or not at all. It does not, however, seem that by reason of the fact that a Power is represented on the Council it is deprived of its position and freedom as a sovereign State, and in that capacity it is entitled to decide when and how it will be represented at the Court of another country. It must, however, be admitted that apart from the Covenant it would seem doubtful whether such action as Japan has taken in China would normally be regarded as an adequate reason for interrupting diplomatic relations. Finally, it must be observed that unless the United States were prepared also to withdraw their representative, the gesture would lose almost all its moral effect.

It was also suggested that the 13 Powers might go further and declare that they would have no economic relations with Japan pending the withdrawal of her occupation. Obviously this would be an ineffective threat unless all or almost all the considerable Powers joined in it. In particular it would be quite useless without the association of the United States and probably Russia. Unanimity of action might be sought by calling a special meeting of the Assembly, but even that would not affect the countries

² Spanish representative on the Council of the League of Nations.

³ Norwegian Minister in Paris and a member of the Norwegian delegation to the League of Nations.

⁴ For this report, as approved by a committee of the Council, see Cmd. 2889 of 1927, *League of Nations: Committee of the Council on Article 11 of the Covenant: Report of the British Representative to the Secretary of State for Foreign Affairs.*

outside the League nor would it be at all easy for countries which had undertaken to cut off economic relations to prevent their nationals continuing to trade with Japan. The experience of the attempted embargo on arms to China is not encouraging in this respect. On the whole, therefore, it is thought that there is no power of effective economic pressure by any means short of those intended in Article 16.

(2) Article 10 provides that the members of the League 'undertake to respect . . . as against external aggression the territorial integrity and existing political independence of all Members of the League'. If Japan refuses to evacuate China, after being formally called upon by China to do so, she can scarcely be said to be respecting her territorial integrity, and if Japan demands that China shall enter into negotiations on the question of Manchurian railways as the price of her evacuation, it is difficult to see how she could be said to be respecting China's political independence. It would seem, therefore, that a refusal by Japan to evacuate would constitute a breach of her undertaking or covenant under Article 10. By Article 16 (4) 'any Member of the League which has violated *any* covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the representatives of all the other Members of the League represented thereon'. It was, therefore, thought that if the members of the Council other than China and Japan were of opinion that in the circumstances Japan had violated its covenant under Article 10 they could declare that she was no longer a member of the League. It was objected that this could not be done until there had been a preliminary vote establishing that Japan had in fact violated her covenant, and this under the rule of Article 5 would require a unanimous vote including the parties. But it was replied that such a construction would make nonsense of that part of the article in question which expressly provided for exception to the unanimity rule. A construction which said that exclusion could in certain cases be voted without the concurrence of the parties to the dispute and at the same time declared that no such vote could be taken without the concurrence of the parties would be an absurdity.

(3) At the time of the Corfu incident it was formally decided by the Assembly, acting on the opinion of a Special Committee of Jurists, that it is within the uncontrolled discretion of any member to say whether or not a particular dispute is likely to lead to a rupture. It would thus be open for China at any moment to declare that such a dispute had arisen between her and Japan and to submit it for investigation and consideration by the League under Article 15. In that case it would be the duty of the Secretary-General to arrange for such investigation and consideration, which would take place immediately and the parties would be required to abstain from hostile action pending the result of that investigation. It is the Council's right and duty under the article to endeavour to effect a settlement of the dispute and if that endeavour is not successful to report their conclusions as to the facts thereof and the recommendations which they deem just and

proper in regard thereto. In the event of a report agreed to by all the members of the Council other than the representatives of the parties to the dispute, Japan would be, further, bound not to go to war with any party which complied with the recommendations of the report. If, therefore, the report contained the provision that China was to resume possession of the territory at present occupied by Japan, and if Japan resisted by hostile actions the attempt of China to comply with the report, she would be taken to have broken her covenant and to have exposed herself to the sanctions of Article 16. It would then become the duty of each member of the League to put in force the economic sanctions provided for in that article as against Japan and it would be the further duty of the Council to recommend what military action, if any, was necessary in addition. It is no doubt true that the recommendation as to military action can also be made without the assent of the parties to the dispute on the principles enunciated by the Permanent Court in the Mosul case.⁵ It is also, of course, true that in the case supposed Japan could be expelled from the League under Article 16 (4) already cited.

It must, however, be borne in mind that it would be extremely difficult for the League to enforce effectively any of these sanctions against Japan unless the United States were at any rate willing not to try and interfere with the action contemplated. No doubt it is true that if the members of the Council who decided that it was their duty to act under Article 16 chose to do so, they could declare war against Japan and thus obtain the ordinary belligerent rights of blockade. But in the face of a hostile United States, this position would evidently be precarious.

One general conclusion should be emphasised, which is that it would be very difficult to take any action, whether under Articles 10, 11, 15 or 16, unless the United States were at any rate benevolently neutral. Indeed, any action which sought to exert moral pressure on Japan would require, to be effective, the active participation of America. Before, therefore, attempting to put in force any of these sanctions, it would be well to ascertain what position the United States would be likely to take up, and as a preliminary it becomes essential that the United States should express its agreement with the terms of any settlement proposed to the parties on behalf of the Council.

⁵ See *Publications of the Permanent Court of International Justice: Series B: Collection of Advisory Opinions*, No. 12, November 21, 1925: 'Article 3, Paragraph 2 of the Treaty of Lausanne (Frontier between Turkey and Iraq)'.

Sir M. Lampson (Nanking) to the Marquess of Reading
(Received November 25)

No. 173 Tour [F 6887/1391/10]

NANKING, October 19, 1931

His Majesty's Minister at Nanking presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs and has the honour with reference to Nanking telegram No. 10 Tour to Geneva¹ of October 17 to transmit to him copy of the minute of an interview with President Chiang Kai-shek on October 17 respecting the Manchurian crisis.

ENCLOSURE IN No. 665

*Minute of Interview with President Chiang Kai-shek respecting the
Manchurian Crisis*

NANKING, October 17, 1931

H.M. Minister was invited to call upon General Chiang Kai-shek at his country villa at 4 o'clock this afternoon. He went, accompanied by Mr. Teichman, and found the American and French Ministers already there. The President was accompanied by his brother-in-law Mr. T. V. Soong, the Minister of Finance, who acted as interpreter.

General Chiang enquired of his visitors what news they had received. No one had any special information to impart, but each Minister contributed such news as he had recently received. Sir Miles Lampson gave His Excellency the substance of Mr. Stirling's telegram of October 15² regarding the Japanese occupation of Kirin.

General Chiang enquired whether the Ministers had any news from Shanhaikuan or any replies from their Governments regarding the despatch of British, American, and French troops to watch the activities of the Japanese there. The Ministers replied in the negative. Sir Miles Lampson added that he had suggested to the British naval Commander-in-Chief the desirability of sending a ship to the Chinwangtao-Shanhaikuan neighbourhood to watch what went on there. General Chiang said that he had just received a telegram from General Chang Hsueh-liang reporting that the Chinese troops were being withdrawn westwards from Shanhaikuan to avoid contact with the Japanese; he indicated, nevertheless, that he was seriously uneasy lest the Japanese intended to provoke an incident at Shanhaikuan with a view to occupying the city and the narrow pass (between the sea and the mountains) and thus cutting off Manchuria from the rest of

¹ Not printed. This telegram, which was repeated to the Foreign Office as No. 275 Tour, transmitted the joint report on this interview by the British, French, and United States Ministers, which is printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 228-9.

² The reference is possibly to the report paraphrased in No. 650.

China. Sir Miles Lampson explained that the British troops only went to Shanhaikuan as a summer resort; the Japanese, he believed, had posts in that neighbourhood all the year round, being in charge of that section of the line.

General Chiang then referred to the situation at Shanghai, where, according to his reports, Japanese rowdies had been parading the streets with marines in attendance, and where the Japanese were, it seemed, similarly seeking to provoke an incident. The Japanese Consul had twice called on the Mayor recently in connection with the boycott and the securing of supplies of coal, rice, etc., for Japanese (which the Mayor had agreed to arrange) and had on both occasions given a vague warning that trouble was to be expected in from three to five days time.

General Chiang begged that the attention of the League representatives at Geneva and of the Governments concerned might be specifically drawn to what might happen at Shanhaikuan and Shanghai during the next few days.

Turning to the general situation the President developed the argument that it was essential to deal firmly with Japan in the present crisis. It was due to the weak attitude of the Chinese, especially in Manchuria, that the present trouble had arisen. But China had changed and was now determined to see things through. He earnestly hoped that the League and America would equally realise the necessity of dealing firmly with the situation, only thus could Japan be induced to see reason.

His Excellency enquired whether the Ministers had received any reports of communist activities in the Japanese army in Manchuria. On the Ministers replying in the negative, he said he had reliable information that several executions of Japanese soldiers on this account had taken place in Manchuria since the commencement of the present trouble. Mr. Soong added that he knew for certain that several Japanese officials in the technical departments of the Japanese Government Service had been executed on account of communist activities in the spring.

General Chiang referred to the difference in the psychology of the Chinese troops inside and outside the Wall. The latter were traditionally afraid of and cowed by the Japanese Army. The former had no such inferiority complex. On the contrary, they were imbued with an intense hatred of the Japanese and were spoiling for a fight with Japan. He mentioned in illustration of this point the Tsinan incident of 1928 when the Japanese had attacked the city, vastly out-numbering the single Chinese regiment defending it as a rearguard action. He had had the greatest difficulty in restraining his troops from continuing hostilities. When he had withdrawn his other regiments they had all wanted to volunteer to fight this rearguard action with the object of getting to grips with the Japanese. The spirit of the Chinese troops in China Proper being such, a clash was unavoidable if the Japanese took any hostile action inside the Wall. He wished the Ministers clearly to understand that this was in no sense meant as a threat, but that, things being as they were, hostilities would in such circumstances be inevitable.

Sir Miles Lampson took the opportunity to interpose and to preach again

counsels of moderation and to urge as strongly as he could the folly of taking any rash step which might lead to extremes. The great thing was to keep the other side in the wrong and to avoid affording them any pretext for justifying their action. Moreover China had appealed to the League which had set the necessary machinery in motion. Indeed the League had made quite a good beginning and all their well-wishers hoped and believed that their efforts would be crowned with success. Even if things went wrong and China's appeal to the Covenant failed (and he, Sir Miles Lampson, refused to believe that this could be the case), there still remained the Kellogg[g] Pact and the Nine Power Treaty, instruments in which America was more directly concerned. (Sir Miles Lampson's American colleague refused, however, to take advantage of this opening and maintained his sympathetic silence.)

The President did not demur to these remarks but emphasised the extreme provocation from which China was suffering. He reverted to the duties and obligations of the League in a matter of such vital importance affecting the peace of the Far East. If the matter could be satisfactorily adjusted the peace of the Far East was assured for the next generation or two; otherwise it was gravely endangered. The Japanese were trying all the time to treat the Manchurian question as a comparatively small *local* issue. It was, however, nothing of the kind, but a question of the first magnitude affecting the peace of the world.

Sir Miles Lampson said that no one in their senses could call the Manchurian question a minor issue. The tremendous importance being attached to it and the attention being paid to it by the League proved this. The French Minister added that the statesmen now dealing with the matter in Geneva were men who had dealt with the problems of the Great War and realised what was meant; and they would therefore most assuredly be doing their utmost to find a way out and maintain the peace of the world.

The President referred to the Washington Nine Power Treaty and its incompatibility with the agreements of 1915, which had been wrested by Japan from China under threats of force. Did the Ministers not think that the question of these 1915 agreements arising out of the twenty-one Demands should be brought up for general discussion? The American Minister, who had been a technical expert at Washington in 1921-2, reminded the meeting of Japan's well known attitude, as formulated at the Washington Conference and on other occasions, namely that she could not permit the validity of these agreements to be called in question. Sir Miles Lampson observed, and his colleagues agreed, that it would be a mistake to raise the issue of the 1915 agreements at the present time when the League and America were concentrating on the immediate problem of preventing serious hostilities.

After further general discussion of the various aspects of the situation the President said that the Japanese Foreign Office might be to some extent susceptible to the public opinion of the world. This was, however, not the case with the Japanese General Staff. The latter had taken advantage of the pre-occupation of the foreign Powers with the Great War to extort from

China the 1915 agreements. They were now similarly seeking to take advantage of the pre-occupation of the foreign Powers with the world-wide economic crisis to repeat this manoeuvre. But the National Government and the China of 1931 were not the same as the Chinese Government and the China of 1915; nor was he, Chiang Kai-shek, another Yuan Shih-kai. Under no circumstances would China now yield to threats of force; she would sooner be destroyed than surrender again to such threats; and in no circumstances would the Chinese Government negotiate in any shape or form until the Japanese troops had been withdrawn and the *status quo ante* September 18 restored. General Chiang repeated this statement with great earnestness, and, speaking with a vigour and intensity of purpose which convinced his hearers of his sincerity, he requested that the Ministers would report his words to their respective Governments and regard them as a formal and official declaration of the intentions and policy of the Chinese Government.

E. T.

M. W. L.

No. 666

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 21, 9.30 a.m.)

No. 151 L.N. Telegraphic [F 5914/1391/10]

GENEVA, October 20, 1931, 11.30 p.m.

Following from Secretary of State.

My telegram No. 149.¹

Signor Grandi in the course of the same conversation asked my views respecting the present Japanese question and the use of Article 16. I replied that there can be no question of that, as yet, as Article 15 had not yet been invoked. Moreover we must be most careful not to say or do anything which might involve us in taking any (? action)² under this Article until we had conferred together as to measures to be taken and had consulted our Governments. In my opinion nothing of this character should be discussed or considered at present.

Repeated to Washington, Nanking, Tokyo.

¹ Not printed. This telegram reported on other subjects discussed by Lord Reading and Signor Grandi on October 15.

² The text is here uncertain. This word was suggested in the Foreign Office.

No. 667

Mr. Patteson (Geneva) to Sir R. Lindsay (Washington)

No. 13¹ Telegraphic [F 5949/1391/10]

GENEVA, October 20, 1931

Following from Secretary of State.

My telegram No. 9.²

In order to carry out arrangement made yesterday with Mr. Stimson without causing undue apprehension to the respective Governments represented in Council and to the Press, M. Briand and I propose at the next public meeting M. Briand should repeat once more statement that United States representative has not been sitting as a member of the Council and has neither had the rights nor duties of a member of the Council, and that in order to remove doubts which seem to have arisen in some quarters special seating arrangements should be made for accommodation of the United States representative at future meetings at separate table to hear and observe the proceedings of the Council. No question arises regarding the secret meetings as in accordance with Mr. Stimson's expressed wishes he will not be invited to attend them.

I informed the United States representative here of the above and he has just told me that he suggested it to Mr. Stimson by telephone this evening and that the latter was in full agreement.

Repeated to Foreign Office No. 152.

¹ This telegram was addressed to Washington as No. 13 on October 20, and was repeated as No. 152 L.N. to the Foreign Office, where it was received on October 21 at 9.0 a.m.

² No. 660.

No. 668

Sir R. Lindsay (Washington) to Mr. Patteson (Geneva)

No. 2¹ Telegraphic [F 5947/1391/10]

WASHINGTON, October 20, 1931

Geneva telegram No. 7 (*sic* ? 9)² to Washington.

Manchuria.

Following for Secretary of State.

Secretary of State sent for me today and repeated at length what he had said to you yesterday by telephone. He hoped that you would understand his intense anxiety to co-operate with efforts for peace which are being made at Geneva but all through his difficulty has been two-fold, namely the tendency in America to revolt against too close co-operation with League of

¹ This telegram was addressed to Geneva as No. 2, and was repeated as No. 648 to the Foreign Office, where it was received on October 21 at 9.30 a.m.

² The text is here uncertain. Geneva telegram No. 9 to Washington is printed as No. 660.

Nations and fear of exasperating sentiment in Japan between whom and the United States feeling is never too cordial. With regard to former he has to be able to represent at home that his co-operation is not so much with the League of Nations as with . . .³ at Geneva and that it is in the main based on the . . .³ as regards the Nine-Power Treaty of (? 1925 [sic])³ on Covenant, to which United States is not a party. He also felt in this respect that proper situation of the United States representative was that of observer and not of a full participant. As regards both (? questions he)⁴ had great difficulty in keeping American press quiet especially when Japanese Government committed the stupidity of opposing admission of United States representative . . .⁵ though he had succeeded pretty well but he had greatly feared the effect in Japan of admission of United States representative to secret sessions from which Japan (though also China) was excluded. All these difficulties he hoped were now over for the moment at least but fearing that they might recur he wished me to telegraph his expressions to you especially as success or failure in the present circumstances was so immensely important with regard to the whole matter of United States co-operation in extra-American questions with other Powers and League of Nations.

Repeated to Foreign Office No. 648.

³ The text is here uncertain.

⁴ The text is here uncertain. This emendation was suggested in the Foreign Office.

⁵ The text is here uncertain.

No. 669

Sir M. Lampson (Nanking) to Mr. Brenan (Shanghai)

No. 74¹ Telegraphic [F 5906/1391/10]

NANKING, October 20, 1931

Your telegram No. 149 to Peking.²

Please consult Chairman of Council and suggest to him desirability of keeping Japanese members of the Municipal Police as much as possible in background at this time of crisis.

I leave it to your discretion to approach your Japanese colleague and local Chinese authorities and urge discretion and moderation. Ends.

Repeated to Geneva and Foreign Office.

¹ This telegram was addressed to Shanghai as No. 74 and was repeated via Geneva as No. 282 Tour to the Foreign Office, where it was received on October 20 at 2.10 p.m.

² See No. 661.

No. 670

Mr. Patteson (Geneva) to Sir M. Lampson (Nanking)

No. 15¹ Telegraphic [F 5911/1391/10]

GENEVA, October 20, 1931

Shanghai telegram to you No. 149² of October 19 and your telegram No. 74 to Shanghai³ October 20:

You should repeat these telegrams to Tokyo with a view to His Majesty's Ambassador approaching Japanese Government in similar sense should he consider it desirable or politic to do so.

Repeated to Foreign Office telegram No. 153 and Tokyo.

¹ This telegram was addressed to Nanking as No. 15, and was repeated as No. 153 L.N. to the Foreign Office, where it was received on October 20 at 8.30 p.m.

² See No. 661.

³ No. 669.

No. 671

Mr. Strang (Moscow) to the Marquess of Reading (Received October 26)

No. 546 [F 6069/1391/10]

MOSCOW, October 20, 1931

My Lord,

I have the honour to report that I had a short conversation with M. Karakhan on the subject of Manchuria at a reception at the Afghan Embassy on the 16th October. M. Karakhan is the Vice-Commissar in charge of Eastern and Far Eastern affairs at the People's Commissariat for Foreign Affairs.

2. While he regarded the situation as still grave, he did not anticipate that the Japanese would extend the sphere of their occupation, and seemed to have no fear whatever that they would encroach upon the Chinese Eastern Railway. He thought they had quite enough on their hands in dealing with the Chinese and did not wish to risk trouble with the Soviet Union as well. He was sure that in the long run the Japanese would lose by what they had recently done in Manchuria. Their trade with China represented so large a proportion of their total foreign trade that they were particularly vulnerable in face of an anti-Japanese boycott.

3. He scouted the idea that the Japanese military authorities were acting without the consent or approval of the Japanese Government. The military authorities undoubtedly had great influence in Tokyo, but the sense of discipline in Japan was even stronger.

4. He spoke with some satisfaction of the attitude adopted by the United States Government, which was, it seemed, a good deal firmer than he had expected. The importance attached by the Soviet authorities to the action of the United States of America is illustrated by a leading article in the

'Izvestiya' of the 18th October, a translation of which is enclosed in my despatch No. 547¹ of to-day's date. The point of the article is that, had it not been for the pressure exerted by the United States of America, the Council of the League would have remained inactive.

5. M. Karakhan gave me the impression of not being very seriously perturbed at the situation in Manchuria, and he confirmed that the Soviet policy was still one of close observation, as described to me by M. Litvinov.² A serious national disturbance on their frontiers was the last thing the Soviet Government wanted and they wished to see the affair peacefully liquidated as early as possible.

6. I called on Mr. Mo Teh-hui on the 19th October and asked him about the position in Manchuria. He gave me, partly on his own initiative and partly in reply to my questions, the following appreciation of the situation.

7. While it was true that Japanese military action had slowed down, the Japanese were very active in bringing influence to bear on the baser elements of the population in order to promote the formation of so-called independent Governments. They were supplying arms and munitions, and were inciting a rebel Chinese general to occupy Tsitsihar. They were also stirring up trouble in Inner Mongolia.

8. Popular opinion in China was in a state of extreme excitement, but the Government were doing their best to calm the populace and were giving protection to Japanese life and property. It was not possible to suppress this anti-Japanese feeling, but it was possible to set limits to its outward manifestation, and this is what the Chinese Government were doing.

9. China had placed her case in the hands of the Council of the League and, having done so, would await the issue of the Council's action. During this time they would preserve an attitude of calm expectancy and do their utmost to allay popular feeling. So long as the Chinese people saw that the statesmen of the world were approaching the dispute with unbiassed minds and were giving due recognition to the moderation of the Chinese Government and people in the face of Japanese aggression, it would be possible to set limits to the manifestations of anti-Japanese feeling. China did not wish Japan to be humiliated at Geneva, and would be prepared to make the necessary allowances. But if the Chinese people lost faith in the justice of world opinion, they might very well get out of hand and commit follies, carrying the Government with them. In such an event China would have to find friends where she could, i.e., presumably, Soviet Russia. There were elements in China, particularly among the intellectuals, who wished China to turn to Russia at once; but the Chinese Government would not be drawn from its present course so long as the Chinese case was before the Council.

10. The Soviet Government were still maintaining their attitude of cautious and rather anxious watchfulness. They were anxious because at the present stage of their internal development any international disturbance would be dangerous for them. They were definitely afraid of the Japanese, and realised that an extension of Japanese action to Northern Manchuria

¹ Not printed.

² See No. 525.

would inevitably embroil them. The proof of their anxiety was the extreme cautiousness and correctness of their attitude. They had, as a Government, made no public manifestation of any kind throughout the whole course of the dispute. Had they felt less anxious they might have been tempted to fish in troubled waters. Communist agitation in China had for the moment ceased, and this was attributable to the recognition by the Soviet Government that anything which weakened China at the present moment would correspondingly strengthen Japan. The only place in the world where Communist agitation was likely to take place at present was in Japan itself. If the Soviet Union could be said to be supporting the Chinese case, this was in no sense from sympathy with the Nanking Government, but rather from community of interest with them at the moment as against Japan. He was convinced that the Russians desired that the dispute should be settled in a peaceful manner at the earliest possible moment.

11. He was anxious to discover what exactly had passed between the Soviet and Japanese Governments, but I could not enlighten him. I was in my turn curious to learn what, if anything, had passed between himself and the People's Commissariat for Foreign Affairs, but he would say nothing beyond what may be inferred from the preceding paragraph.

I have, &c.,

WILLIAM STRANG

No. 672

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 22, 10.15 a.m.)

No. 156 L.N. Telegraphic [F 5958/1391/10]

GENEVA, October 22, 1931, 8.40 a.m.

Following from Secretary of State for Foreign Affairs.

Negotiations conducted by M. Briand have shown that it would be impossible to obtain from the Japanese consent to time limit for evacuation or to intervention of neutral officers. He consequently put to them proposals now reduced to form of resolution approved by Committee of Five¹ which may be summarized as follows:—

1. Notes that Council have invoked Article II of Pact of Paris.

2 to 5. Identical with points 1 to 4 in my telegram No. 144.²

6. Notes willingness of Chinese and Japanese Governments to enter immediately into conversations to conclude necessary arrangements for withdrawal of troops and security of Japanese lives and property, such arrangements to permit of evacuation being completed in shortest possible time.

7. Decides in order to leave time for these conversations and for completion of evacuation to adjourn until November 12 subject to right of President to convoke earlier meeting if necessary.

¹ i.e. the informal committee whose first meeting is recorded in No. 519.

² No. 656.

8. Invites parties to furnish Council with information regarding progress of negotiations and evacuation.

As a supplementary recommendation Council invite Japanese and Chinese Governments to consider creation of a permanent conciliation commission to consider after evacuation all questions arising from present incident or other questions outstanding between the Governments.

Japanese representative has telegraphed Tokyo for instructions and is still awaiting reply. Committee of Five met this evening and agreed that if favourable reply arrives before 10.30 tomorrow³ morning when they will meet again, above resolution will be put before the parties. If agreement can be reached, it would be brought before public meeting of Council in the afternoon.

If Japanese reply is unfavourable, Council would produce at public meeting tomorrow resolution summarized in my telegram No. 144. President would indicate that this constitutes in opinion of Council reasonable settlement and would beg both countries to reflect upon it. Council would adjourn for say a fortnight.

In either eventuality I anticipate I shall leave here tomorrow night.

Repeated to Nanking, Tokyo and Washington.

³ This telegram was drafted on October 21. On that day Lord Reading further stated, in a letter on various topics to Sir R. Vansittart:

'We have found the issue before the Council a tougher nut to crack than I anticipated when I left London and my stay here has accordingly been prolonged beyond expectation. Now I do not suppose it would have been possible for me to remain here but for the suspended activities of the Government during the Election, at the same time I think it has been of advantage that I have been able to remain since a good deal more is involved in the issue than the particular dispute under consideration. A failure by the League to find some way round the difficulty would be nothing short of a calamity at the present juncture and might imperil any hopes we may have of making progress towards a solution in the more immediate field of Europe in which we are so much concerned.

'The Japanese attitude is still very stiff, but we have a meeting this morning which I hope may result in providing a basis for settlement which the League could accept. Briand as President of the Council has been negotiating with the Japanese on behalf of the Council and is doing what he can to bring the necessary pressure to bear on Tokyo.

'There is no question but that we cannot now delay any longer and that the affair must be brought to a head. It is my intention, unless I see a definite move forward and a prospect of ending the discussions, to come away perhaps even tonight.'

No. 673

Mr. Patteson (Geneva) to Sir R. Vansittart (Received October 22, 5.35 p.m.)

No. 159 L.N. Telegraphic [F 5988/1391/10]

My telegram No. 156.¹

GENEVA, October 22, 1931, 5.5 p.m.

Following from Secretary of State.

Japanese reply is unfavourable in that it demands as condition of evacuation that Chinese Government should give undertaking to fulfil engagements

¹ No. 672.

due to Japan under international treaties concerning railway situation in Manchuria.² Thus Japan demands settlement of dispute while in occupation of Chinese territory.

Committee of five therefore met this morning and approved text of resolution based on that given in my telegram No. 144.³ Drafting changes have been introduced but these do not touch essentials.

This is being submitted to other members of Council for their concurrence and it has been communicated to the United States representative. It is also [? being] shown to the parties.

It will come before Council at public meeting this afternoon. If, as seems certain, it cannot be adopted owing to Japanese opposition it will remain on record as Council's idea of proper solution and Council will simply decide to meet again November 16 when problem will have to be faced.

It remains to be seen what effect this may have on Japan.

In any case we may obtain breathing space in which to consult principal Governments including the United States as to our objectives and possible course of action.

Repeated to Washington, Tokyo and Nanking.

² See further No. 679.

³ No. 656.

No. 674

Mr. Patteson (Geneva) to Sir F. Lindley (Tokyo)

No. 15¹ Telegraphic [F 5991/1391/10]

GENEVA, October 22, 1931

My telegram No. 161² gives text of resolution submitted to public session of the Council today on which both parties asked for a short delay to consult their Governments. It is hoped they may have instructions by tomorrow evening.

I am assured on good authority that there is serious reason to believe that the Japanese delegate does not keep his Government fully or fairly informed of proceedings here and that he has not telegraphed full text. Could you take early opportunity of seeing Minister for Foreign Affairs and expressing the hope that his Government may find it possible to accept the resolution. You might show him text pointing out that it gives Japan four of their five points³ such as we know them and that as regards the fifth point i.e. settlement of railway question it provides for proper discussion after evacuation has been completed.

Repeated to Foreign Office.

¹ This telegram was addressed to Tokyo as No. 15 on October 22 and was repeated as No. 162 L.N. to the Foreign Office, where it was received on October 23 at 9.0 a.m.

² Not printed. This telegram (No. 16 to Tokyo) transmitted the text of the resolution printed in *League of Nations Official Journal*, December 1931, pp. 2340-1. For an earlier draft of this resolution see No. 656.

³ See No. 653, paragraph 3 and note 1. See also Nos. 679 and 680.

Sir M. Lampson (Nanking) to Mr. Patteson (Geneva)

No. 20¹ Telegraphic [F 6031/1391/10]

NANKING, October 22, 1931

Your telegram No. 13.²

I saw Japanese Minister at Shanghai October 20 and pressed him as strongly as I could giving him gist of Your Lordship's messages to Tokyo and sense of your conversations up to date at Geneva with Yoshizawa.

2. I found him outwardly unresponsive but I am not sure that I may not have made some light impression. I took as my text M. Briand's formula as given in your telegram No. 2 from Geneva³ and enlarged on necessity of Japan agreeing to evacuate under the eyes of neutral observers as leading up to direct negotiations with China.

3. Minister developed the justice of Japan's case; this was third time that a third party had intervened against Japan in Manchuria and the League sitting at a distance did not realise what it was doing.

4. I maintained that as a sensible man he, Shigemitsu, must know the general desire of getting away from the present situation of tension. During the past week I had been concentrating on preaching moderation to Chinese side, not entirely without success. That Japan must be moderate too and she stood committed to evacuate by League of Nations resolution of September 30. Continuing I observed that Japan seemed to me, as a friendly critic, to have blundered in various ways. First she had struck without exhausting machinery for pacific settlement of dispute through the League of Nations machinery—that had placed her *ab initio* in a bad light. Secondly there had been the bombing of Chinchow which was inexcusable and had a marked effect on public opinion—see for example the changed tone of 'The Times'. Next had come the boycott note which had been far too strong. And lastly had come the colossal tactical blunder about America's attendance at Council meeting.

5. Japanese Minister put up the best case he could on all these counts and we agreed to differ upon them. But he undertook to report what I had said especially in support of the formula in your telegram No. 2 from Geneva.

6. I asked him blunt question what Japan would do if China sulked and would not play without previous evacuation. He professed indifference, Japan would stand fast and wait until time did its work on Chinese attitude. I could not shake him on this and thought it wiser not to allude to possible effect of Chinese economic pressure which as I have indicated elsewhere to my mind may provide key to solution of problem as on occasion . . .⁴

¹ This telegram was addressed to Geneva as No. 20 on October 22 and was repeated thence as No. 287 Tour to the Foreign Office, where it was received on October 23 at 5.30 p.m.

² See No. 687, paragraph 11.

³ No. 631 was repeated to Nanking as Geneva telegram No. 2.

⁴ The text is here uncertain.

7. Throughout my conversation I was most careful to emphasise that I spoke as a true friend of Japan of many years standing, that I was appalled at prospect opened by non-settlement of present tangle which might lead to infinite complications and time and again pointed out in the interests of both countries some basis of compromise *must be* found. It was just as essential to be on terms with China as *vice-versa*. So passions must be damped down and saner atmosphere induced when *both sides* could look at matter more sanely. On Japanese side this should take the form of agreeing to League of Nations formula regarding evacuation.

8. It is unfortunate that in present changed [*? charged*] atmosphere Japanese Minister judged it better not to come to Nanking for a frank exchange of views with him could do no harm. But I have assured him that I will gladly come to Shanghai again to resume our discussions if pressure of work at Nanking should later on permit. I felt that he is anxious to help but is not unnaturally dominated by sense of justice of Japanese cause from which at present it would be hopeless to try to shake him.

Repeated to Foreign Office.

No. 676

Sir M. Lampson (Nanking) to Mr. Patteson (Geneva)

No. 22¹ Telegraphic [F 6033/1391/10]

NANKING, October 22, 1931

Shanghai telegram No. 149.² Consul-General at Shanghai reports that conference was held on October 20 between Settlement Secretary-General and Commissioners of Police of Shanghai Municipal Council and naval and consular authorities.

2. Japanese complain of lack of firmness on the part of Municipal Police especially on October 18 and advocated 'Swift justice' which they defined as opening fire without delay. Municipal authorities deprecated such action as likely only to precipitate situation and explained their policy of reserving fire until last possible moment. It had hitherto been understood that Council would maintain order with their own forces as long as possible and that foreign military contingents would only be invited to take action when Council informed them that the situation was beyond civil control. Japanese were ignoring this understanding and taking independent measures (e.g. patrol of streets by armoured cars) which in the opinion of Municipal Council so far from over-awing Chinese was affording provocation of which Communists and anti-foreign elements were taking advantage. Japanese insisted that they must take their own measures of protection but eventually

¹ This telegram was addressed to Geneva as No. 22 on October 22, and was repeated thence as No. 296 Tour to the Foreign Office, where it was received on October 23 at 5.30 p.m.

² See No. 661.

promised better co-operation with the police and agreed to appointment of liaison officers.

3. His Majesty's Consul-General, while concurring generally in attitude of Municipal Council, has pointed out that if shooting is inevitable it had better be by [*sic*] done by Japanese marines rather than by British officered police so as to avoid repetition of incident of May 30, 1925,³ with its consequent repercussion on British interests and therefore regards it as unwise to insist over much on keeping Japanese marines in the background. He is meanwhile urging local Chinese authorities to moderate anti-Japanese demonstrations.

4. On returning yesterday from Shanghai (where I had discussed situation thoroughly with His Majesty's Consul-General) I warned Acting Minister for Foreign Affairs very seriously of risk of any clash in the Settlement between Municipal Police and Chinese mob and begged him to take strong measures to restrain his nationals. Acting Minister for Foreign Affairs saw the danger and undertook to do his best but matter was very difficult. He hoped that similar counsels were being sent to Japanese whose marines, by parading the streets, were largely to blame and trusted that Japanese personnel of police would be kept so far as possible in the background. This I told him was already being done.

5. United States Minister has spoken in the same sense to Acting Minister for Foreign Affairs and (following is very confidential) I have spoken strongly on the subject to Mr. Wellington Koo who told me yesterday that Foreign Affairs Committee had issued instructions to the Mayor of Shanghai to check illegal activities of boycott association and forbid such things as arrests and punishment of offending merchants.

Repeated to Foreign Office No. 296, Peking, Tokyo, Shanghai, Commander-in-Chief.

³ See No. 1, note 2.

No. 677

Sir M. Lampson (Nanking) to the Marquess of Reading
(Received November 25)

No. 177 Tour [F 6889/1391/10]

NANKING, October 22, 1931

His Majesty's Minister at Nanking presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs and has the honour to transmit to him copy of the minute of an interview with President Chiang Kai-shek on October 19 respecting the Manchurian situation.¹

¹ Sir M. Lampson had transmitted, on October 19, in his telegram No. 18 to Geneva (repeated to the Foreign Office as No. 284 Tour), the joint report on this interview by the British, French, German, and United States Ministers, which is printed in *Foreign Relations of the United States 1931*, vol. iii, p. 264.

Minute of Interview with President Chiang Kai-shek

NANKING, October 19, 1931

Present:

General Chiang Kai-shek and Mr. T. V. Soong. H.M. Minister (and Mr. Teichman), American Minister, French Minister and German Minister.

After enquiring for and receiving such news as the Ministers had to give him from their telegrams (which did not amount to much), the President enquired what the Ministers thought of the present trend of the proceedings at Geneva.

His colleagues being at a loss for a reply, H.M. Minister turned the question by mentioning as a recent development of great significance the messages that he and some of his colleagues had that day addressed to the Chinese Government invoking the Kellogg Pact.

After further general discussion the President enquired whether the Ministers had heard anything of and had any views on the following proposal which he understood to be under consideration at Geneva; that the Council should fix a time limit for the withdrawal of Japanese troops, say three or four weeks, that within this time limit, say after ten days or so, negotiations without observers regarding the details of evacuation should be opened between Chinese and Japanese representatives, and that neutral observers should be attached to the Chinese side only to watch the transfer of control from Japanese to Chinese authorities as the withdrawal took place. Sir Miles Lampson said he had heard of M. Briand's original three points but he had not received any detailed information of subsequent developments in the private discussions since then. What did the President himself think of the proposal to which he had referred? General Chiang replied that without observers present at these evacuation negotiations such an arrangement would not satisfy China as there would be no guarantee that withdrawal would be completed in the time specified. He referred to the failure of the Japanese to withdraw by October 14 as promised to the Council on September 30 and stressed the difficulties of controlling the situation if the delay in withdrawal continued.

Sir Miles Lampson said that it seemed to him that a complete deadlock now prevailed in that the Chinese refused to negotiate until the Japanese had withdrawn, while the Japanese refused to withdraw and indicated that they would not permit mediation or intervention by any outside party. Some means must be found of getting out of this impasse.

General Chiang reverted to the importance of securing early withdrawal and requested the Ministers specifically to impress the following three points on their respective Governments: (1) that everything possible should be done to expedite withdrawal, further delay in which was fraught with grave dangers: (2) neutral observers should be present to watch the arrangements for withdrawal and after: and (3) China trusted that the Council would not adjourn until withdrawal had been completed, as Japan was playing

for adjournment without anything definite having been arranged, as had happened on September 30. That adjournment on September 30 had created a most deplorable impression in China. The Ministers doubtless understood the realities of the situation in China and in the Far East, but it was to be feared that their representatives in Geneva might not do so.

Sir M. Lampson (who did most of the talking in the absence of any remarks by his colleagues) said that, speaking for himself (and his colleagues concurred), he had reported very fully to his Government. But it was, of course, his duty to communicate to them any message which the President might desire to send; that was indeed what he was there for. He would certainly transmit the President's three points. But as regards the Council not adjourning, he did not suppose that H.M. Secretary of State for Foreign Affairs would be able to remain indefinitely in Geneva.

Sir M. Lampson enquired about the internal situation and what prospects there were of an effective reconciliation with Canton; the matter did not of course concern him as a foreign Minister, but nevertheless it had an important bearing on the external crisis. His Excellency had probably noticed that use had in fact been made of this continued disunion in China in connection with the crisis. In any case the bearing of the internal situation on the external crisis was obvious. The President was not communicative in reply and merely said that there was no Canton question. Foreigners regarded the matter with undue seriousness. In actual fact it was of no importance.

General Chiang then said that he desired to make some final personal observations. He would like to reverse the point put by Sir Miles Lampson and say what would be the effect on the internal situation if the external crisis was not settled? If withdrawal of Japanese troops was not effected and the Council failed to find a solution, the effect in China might be very serious. On the one hand there was the so-called Western Hills faction, the Right Wing, who believed in secret dealings with Japan and professed to regard the League of Nations as useless; and on the other hand there was the Left Wing, which believed in association with Russia and the Communists. The Japanese did not perhaps realise the dangers they were themselves running. If they succeeded in overthrowing the National Government and himself, General Chiang, whom they regarded as their enemy, the results would certainly involve the dominance of the Left, with disastrous consequences for all. If, on the other hand, the Council of the League were able to secure the withdrawal of the Japanese troops under the aegis of League observers the Central Government would be able to maintain itself and would absorb both Right and Left Wings.

E. T.

Chinese Chargé d'Affaires to the Marquess of Reading (Received October 22)

[F 5984/1391/10]

CHINESE LEGATION, LONDON, *October 22, 1931*

The Chinese Chargé d'Affaires presents his compliments to His Majesty's Principal Secretary of State for Foreign Affairs and has the honour to enclose the Chinese Government's reply to His Majesty's Government's communication inviting the attention of the Chinese Government to the provisions of the Treaty for the Renunciation of War.¹

ENCLOSURE IN No. 678

Memorandum from Chinese Government

WAICHIAOPU, *October 21, 1931*

The Chinese Government have received from His Britannic Majesty's Government the communication in which His Britannic Majesty's Government invite the attention of the Chinese Government to the provisions of the Treaty for the Renunciation of War of the 27th August, 1928, and express the hope that both the Chinese and Japanese Governments will refrain from taking any steps that might endanger the success of the efforts already in progress to secure a peaceful settlement of the present situation in China.

The Chinese Government feel thankful to His Britannic Majesty's Government for the deep concern shown in the development of events in the North-Eastern Provinces of China since the 18th September, when Japanese troops, in defiance of international law, the Treaty for the Renunciation of War, and other international agreements, began their unprovoked attack on Shenyang (Mukden) and other cities. Being desirous of strictly adhering to the undertakings assumed under international treaties, particularly the Covenant of the League of Nations and the Treaty for the Renunciation of War, China has judiciously refrained from employing force to meet the military aggressions of Japan, and has been seeking, from the very beginning, a just and adequate settlement by pacific means. We have therefore entrusted our case unreservedly to the League of Nations. We absolutely rely on the solemn engagements contained in the Treaty for the Renunciation of War, the Covenant of the League of Nations, and other international agreements designed for the maintenance of peace, in the belief that Japan will be awakened to her legal as well as moral duty to human civilisation.

The Chinese Government sincerely hope that the active efforts now in progress in Geneva to arrive at a settlement of the present case in the interests of justice and peace, will soon be crowned with success which will be conducive to the well-being not only of China but of the whole world. The

¹ A copy of this note was also communicated to the Foreign Office by Sir M. Lampson in his despatch No. 179 Tour of October 22.

Chinese Government will persist in their own efforts to seek the settlement of all questions of whatever nature by peaceful means, and will give the Council of the League of Nations every assistance in devising a permanent system ensuring the effective observance of this policy in the future in the Far East.

No. 679

*Letter from Sir E. Drummond to Mr. Cadogan (Geneva)*¹

[F 6358/1391/10]

LEAGUE OF NATIONS, GENEVA, *October 23, 1931*

Herewith two copies of the record of a long conversation which I had with Yoshizawa last night.

I am looking to you to keep Gilbert fully informed of the position.

Yours ever,

ERIC DRUMMOND

I am letting Massigli have a copy.

ENCLOSURE IN No. 679

Record of Interview

GENEVA, *October 22, 1931*

Mr. Yoshizawa came to see me this afternoon. He said that he was very appreciative of the efforts which M. Briand and I had made to find a satisfactory solution of the problem at present before the Council. He had now received a telegram from his Government in which it was stated that they accepted in principle the first of the three courses which I had indicated in my conversation with M. Sugimura,² and which the latter had repeated to him on October 20th. He showed me the text of the telegram, which explained in the first place the reasons why the Japanese Government could not agree to any time-limit for the evacuation of troops (these were those contained in Mr. Yoshizawa's statement at the Council meeting), but stated their willingness, as the evacuation and direct negotiations proceeded, to inform the Council from time to time as to the result. The Ambassador expressed his regret that in view of the step forward which he considered had been made by his Government, the resolution³ read out this afternoon had been submitted to the Council.

I told the Ambassador that I regretted deeply that the negotiations which had taken place between himself and M. Briand had not come to a satisfactory conclusion. The whole point of M. Briand's proposal⁴—and my proposal was nothing but a repetition thereof—was that the fifth point⁵ should

¹ Received in Foreign Office on November 5.

² No record of this conversation has been traced in Foreign Office archives.

³ See No. 674, note 2.

⁴ Cf. No. 672.

⁵ See No. 674.

be so modified by the Japanese Government as to bring it under the terms of the resolution of September 30th, and in particular that part thereof which applied to security. But I had understood from M. Briand that he had been informed last night that the modification suggested in the fifth point by the Japanese Government did not effect this purpose. This being so, it was impossible for M. Briand to agree to recommend direct negotiations before the evacuation had taken place, and I was in exactly the same position.

M. Yoshizawa then read me the amended fifth point, which was to the following effect:

An undertaking by the Chinese Government to fulfil the obligations which China owes to Japan under the existing treaty provisions between the two countries relating to railways in Manchuria.

I said that this was exactly the same wording as had been conveyed to M. Briand, and that the difficulty therefore remained the same. I feared that the matter had now progressed a further stage, and that it was impossible to go back to the stage of yesterday or the day before, since the new resolution had been made public. But I should be very glad to know what was meant by the words 'existing treaty provisions'. Did this mean treaty provisions which were mutually recognised, or did it refer to certain treaties which the Chinese Government did not accept?

Mr. Yoshizawa said that he could not give me any direct answer, but, for instance, he thought it applied to the Peking Protocol, by which provision was made that no railways competing with the South Manchurian Line should be built in China. I said that this was exactly the kind of thing I had in mind. I understood that the Peking Protocol was disputed. Mr. Yoshizawa said t[h]at this was so, and also there was a dispute over the Chientao Treaty, which was of the greatest importance to Japan. This Treaty had been concluded some twenty years ago.

I remarked to Mr. Yoshizawa that this being the situation, I really did not see any way to meet him. I could only now suggest to him that if I were in his place I should probably ask the Chinese representative in public whether or not China was prepared to fulfil the obligations undertaken in accordance with treaties recognised by both parties. If the Chinese representative said that he was prepared to do so, then the Japanese Government would have secured an undertaking which would give effect to their fifth point. If there was any question of the validity of certain treaties, surely the right procedure was to have recourse to the Hague Court.

Mr. Yoshizawa said that he feared his Government would not be likely to take such questions to the Hague Court.

I begged him to read very carefully the terms of the present resolution. The first four points as set out in 'The Times' of October 21st were included in the first three articles of the resolution; therefore, on these points Japan would obtain satisfaction. As for the fifth point, the resolution contained a recommendation that it should be studied immediately after evacuation had been completed. The only method I saw of obtaining immediate satisfaction

on this point would be that Mr. Yoshizawa should address a question to the Chinese representative on the Council in the sense I had indicated.

Mr. Yoshizawa said that he feared that his Government, which were very firm, had probably said their last word on the subject. He would, however, study the resolution, but if the meeting was to be held to-morrow afternoon, he would hardly have time to consult his Government. I remarked that if it were a question of consulting his Government, I felt sure that the Council would, as they had done to-day in the case of Dr. Sze, be perfectly prepared to give him a little longer time. Mr. Yoshizawa said that he would consider this suggestion.

I again repeated that while I was most willing to do everything I could to help find a satisfactory solution, I feared that the matter had now passed beyond the stage where M. Briand's proposal was still open for acceptance by the Japanese Government, since the new resolution had been submitted. If the Japanese Government had seen their way to drop point (5), things would have been easy, but they had not found it possible to take such action, or indeed, to modify point (5) in the sense M. Briand had proposed.

Mr. Yoshizawa promised that he would consider very carefully what I had said, and also the new resolution.

E. D.

No. 680

Mr. Patteson (Geneva) to the Marquess of Reading¹

(Received October 24, 9.30 p.m.)

No. 163 L.N. Telegraphic [F 6063/1391/10]

GENEVA, October 24, 1931, 7.50 p.m.

Following from Lord Cecil.

Counter draft resolution submitted by Japanese delegate yesterday² makes evacuation dependent on settlement of certain 'fundamental principles'.

Japanese delegate yesterday refused to disclose what these are although in his speech he stated that his Government had already formulated them. I wrote to him privately last night asking if he would tell me whether by any chance they corresponded with those telegraphed to 'The Times' from Tokyo, October 20. His reply to me this morning was simply to the effect that they were points communicated confidentially a few days ago to British delegation.³ (These were in fact the five points given in 'The Times'.) He added 'a little modification has subsequently been made'.

Geneva press this morning announced that Japanese delegate had received new instructions to make evacuation dependent on Chinese recognition of

¹ Lord Reading had left Geneva on October 22.

² For the proceedings of the Council on October 23 and 24 see also *League of Nations Official Journal*, December 1931, pp. 2343-62.

³ See No. 653, note 1.

treaties and cessation of anti-Japanese agitation and in confidential communication to me he confirmed this.

When taxed at the Council meeting this morning with press statement he would not confirm it and still refused to define his 'fundamental principles'. He tried to pretend that these latter referred simply to security of his nationals in territory to be evacuated, but could not explain why in that case Council resolution was insufficient. Nor could he suggest any amendment of latter except insertion of reference to 'fundamental principles' which he refused to define.

President pointed out to him impossibility of asking the Council to vote a resolution meaning of which is withheld from them.

I fear nothing will move him but he has got himself into a position here at least in which he has forfeited all sympathy which the press and public might have been ready to accord him.

Repeated to Nanking, Tokyo and Washington.

No. 681

Mr. Patteson (Geneva) to the Marquess of Reading
(Received October 24, 9.30 p.m.)

No. 164 L.N. Telegraphic [F 6064/1391/10]

GENEVA, October 24, 1931, 7.50 p.m.

Following from Lord Cecil:

At Council meeting this afternoon Japanese delegate was unable to make any advance beyond his position of this morning.

His counter draft was put to the vote and he alone voted for it.

Chinese¹ draft was then submitted and received votes of all the members except the Japanese who voted against it.

The President summed up saying the latter's resolution remained on record and he hoped, that by the time the Council next met the goodwill of both parties would have rendered possible solution of the crisis. Chinese delegate said he could not help fearing that this might not be so, and expressed apprehension that the period till the next meeting of the Council of November 16 might be too long; incidents might occur in the meantime that [? might] aggravate the situation.

He did not indicate that his Government, for their part, would do everything to implement negotiation. This may have been merely omission on his part. I cannot help feeling that if the Chinese Government would at once nominate representatives to discuss the question of transfer of evacuated territory and show readiness to carry out Council's wishes in every respect they would maintain one² strong position in public opinion which their delegate's able handling of the case has won for them here.

¹ Another text here read correctly, 'Council'. See No. 674, note 2.

² In another text this word read 'the'.

You may wish to consider whether you would give any friendly advice in this sense.

Council adjourned until November 16.³

Repeated to Nanking, Tokyo and Washington.

³ This telegram was minuted as follows by Mr. MacKillop and Mr. Orde:

'The crucial point is whether the *first* step to be taken is evacuation of the territory, occupied outside the treaty zone (the Chinese thesis) or whether normal conditions should be re-established, or be on the way to re-establishment, before evacuation takes place. What *are* the wishes, in this respect, of the League Council? So far as I know they have not been definitely formulated, indeed the process of consideration of what is the best means of securing a settlement still continues. If we were to offer friendly advice to the Chinese, we should have to be fairly definite. Should we therefore advise them to negotiate at once? My personal view is that it would be very good advice: but surely whatever advice is to be given to either party should be given by a group of Governments and not by one, and its terms should be agreed upon beforehand after discussion: and surely individual action at this stage might confuse the situation, to say nothing of the fact that the Chinese Government have unreservedly entrusted their case to the *League of Nations*. It is therefore for the League Council to address friendly advice to China and the proper procedure, in my opinion, would be for the representative of His Majesty's Government, on the adjourned meeting on November 16, to recommend that a message should be sent to the Chinese Government in the sense of the relevant paragraph of Lord Cecil's telegram.

D. MACKILLOP 26/10'

'The Council resolution provides for negotiation *after* evacuation. We can only proceed on that basis at the moment.

'To wait till November 16th is equivalent to negating Lord Cecil's suggestion, which I understand the Secretary of State is inclined to favour.

'I am not really aware what the dominant requirements of the situation are held to be so I am rather groping in the dark when I suggest doubts of the expediency of strengthening the Chinese tactical position, as Lord Cecil's suggestion is apparently designed (and if so, correctly calculated) to do. Whether one holds Japan to be essentially in the right or essentially in the wrong (momentarily as a result of her high-handed coup she is in the wrong) depends formally very much on what date in history one takes as a starting point and fundamentally on one's view of the vital necessity to Japan of strategic and economic guarantees in Manchuria, and the right of a nation to interfere in a foreign country in order to secure such guarantees.

'I confess to the view that Japan has a much better case than her arbitrary action and the bad showing of her representative at Geneva have allowed to appear. If this is so, it is surely a mistake to allow our view of the situation to be governed by displeasure at her tactical mistakes and to take action which, by strengthening China's tactical position, will tend further to obscure the question of fundamental justice. It is surely certain that the prestige of the League will in the long run be effected [*sic*] more by the degree in which fundamental justice is recognised by her, than by the emphasis with which she reprobates arbitrary action by one of her members.

'From another angle equally effecting [*sic*] the prestige of the League, one must consider what will give the best chance of emerging without a confession of impotence from the present position. It is, I think, certain that Japan attaches more importance to her position in Manchuria than she does to the League or her own membership of the League. I do not believe that on November 16th the Japanese will have presented the Council (and China) with a victory by carrying out the Council resolution. If she does not, the alternatives will be:—

- (1) Action leading up to sanctions under Article 16 of the Covenant (if the Chinese will oblige by declaring that there is a dispute likely to lead to a rupture).

- (2) A confession of helplessness, and
- (3) A compromise which can take various forms: negotiations between China and Japan before complete evacuation; the same with neutral assistance; an International Conference on Manchuria; and perhaps others.

“The application of Article 16 is probably impossible (certainly without America, and Senator Borah is reported this morning as saying that “economic pressure in these days is the same as a declaration of war”); if so, action which, if the Japanese stand firm (as I think they will do), could only end logically in the application of Article 16, will as a matter of fact end in an aggravated confession of helplessness. The conclusion seems to be that we should work for an ultimate compromise or at least do nothing to prejudice the chances of arriving at one. I cannot help feeling that Lord Cecil’s proposal by strengthening the Chinese technical position will lessen those chances.

‘If these remarks run counter to decisions of principle already taken, I can only apologise for irrelevance due to ignorance.

C. W. ORDE 26th October 1931’

CHAPTER XI

Further correspondence regarding the Manchurian dispute and attempts to reach a settlement during the adjournment of the Council of the League of Nations: the Nonni bridge incident (October 26–November 16, 1931)

No. 682

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 26, 9.30 p.m.)¹

No. 200 Telegraphic [F 6066/1391/10]

TOKYO, October 26, 1931, 12.55 p.m.

Your telegram No. 17 from Geneva.²

Press takes the line that Council of League of Nations have not understood the special conditions in Manchuria and that the Japanese cannot yield even to a world opinion when their existence is at stake.

Most disagreeable feature of press is attack on British Delegates who are accused of anti-Japanese bias throughout and are held mainly responsible for the resolutions. Various reasons are given for this attitude amongst others anti-Japanese sentiments of Sir M. Lampson and in one or two articles of myself.

Frequent references are made to landing and presence of British troops at Shanghai.

Repeated to Peking.

¹ This time is probably an error for 9.30 a.m.

² The reference is uncertain but it is possible that this telegram was the repetition to Tokyo of No. 680.

No. 683

The Marquess of Reading to Sir F. Lindley (Tokyo)

No. 556 [F 6133/1391/10]

FOREIGN OFFICE, October 26, 1931

Sir,

The Japanese Ambassador at my request called to see me at the Foreign Office this afternoon. I gave Mr. Matsudaira at his invitation an account of the proceedings which had taken place at Geneva in connexion with the Sino-Japanese dispute, and expressed the hope that the Japanese Government would make some contribution towards the solution of the difficulty in the period intervening before the next meeting of the Council of the League on the 16th November. I explained that I had seen Mr. Yoshizawa several times privately and had sought in virtue of the long-standing friendship of our two countries to help in a solution which the Japanese Government could accept; I told Mr. Matsudaira that it was inconceivable that Japan should disregard her obligations under the Covenant of the League and that I felt sure that she herself must fully realise the difficulties of disregarding the views of the Council, notwithstanding that these amounted only to recommendations by reason of Japan's dissent.

Mr. Matsudaira thanked me for the explanation which I had given him and said that he would communicate my views to his Government in the hope that they might assist them in reaching a decision as to the steps to be taken to facilitate the peaceful ending of the present unfortunate controversy.

I am, &c.,

READING

No. 684

Sir M. Lampson (Nanking) to the Marquess of Reading

(Received October 27, 9.30 a.m.)

No. 304 Tour: Telegraphic [F 6094/1391/10]

NANKING, October 27, 1931, 11.50 a.m.

My immediately preceding telegram.¹

President asked me to come and see him half-an-hour before my colleagues arrived and expressed his sincere gratitude for assistance rendered to China by Your Lordship and Lord Cecil at Geneva. I took the opportunity in anticipation of your instructions to communicate to him verbally substance of Geneva telegram No. 164 to Foreign Office.² His Excellency

¹ Not printed. This telegram comprised the joint account by the British, French, and United States Ministers of their interview on October 26 with General Chiang Kai-shek, which is printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 330-1. See also Sir M. Lampson's further report in No. 687, paragraph 16.

² No. 681.

at once said that Chinese Government intended to proceed immediately with execution of terms of resolution. They would consult Chang Hsueh-liang as to nomination of Chinese representatives to discuss arrangements for transfer of evacuated territory. His Excellency then invited me to nominate British observers to be attached to Chinese authorities in language similar to that used to me and my colleagues jointly later on. This request we were subsequently informed at joint meeting was to be taken as formal invitation from Chinese Government.

2. I took the opportunity at joint meeting reported in my immediately preceding telegram to emphasize to President the vital importance from Chinese point of view of taking all possible care to guard against incidents which might be held to justify Japanese attitude and of sending the best available Chinese troops and officials to take over evacuated areas as and when Japanese withdrew. This was all the more necessary in view of alarming spread of brigandage in South Manchuria consequent on recent events. The President fully concurred.

3. As soon as I receive Your Lordship's authority to nominate observers (and I beg that instruction on this point may be telegraphed to me as soon as possible) I propose to send in to Chinese Government names of Military Attaché and a suitable senior member of the Consular Service as British representatives with such civil and military assistants attached to them as circumstances may require.³

4. At a previous interview President desired me to express to Your Lordship his grateful appreciation of your action in going to Geneva and his earnest hope that you would be able to be present when the Council session was resumed on November 16.

Repeated to Tokyo.

³ This authority was given to Sir M. Lampson in Foreign Office telegram No. 326 to Peking of October 28.

No. 685

Memorandum by Sir J. Pratt respecting the Manchurian Problem

[F 6119/1391/10]

FOREIGN OFFICE, October 27, 1931

1. Ever since China in 1896 committed the folly of permitting Russia to build a system of Russian State Railways (now the Chinese Eastern and the South Manchurian Railways) on Chinese territory there has existed a wholly anomalous state of affairs in Manchuria—a state of affairs without precedent and without parallel in any other part of the world or in any other period of the world's history. The ordinary canons of international intercourse have no application in Manchuria. Japan was forced in consequence of China's folly to risk national destruction in a war with Russia. She emerged victorious from the war and succeeded to Russia's position in South Manchuria

and she has always regarded the maintenance of this position as vital to her national existence.

2. An arrangement by which one country owns and garrisons a railway running through the territory of another country is not one which it is possible to reconcile with the principles on which the Covenant of the League of Nations is based. Such an arrangement is certain to give rise to race hatred and chronic friction flaring up in occasional clashes of greater or less severity. There is room for doubt whether the strict and academic application¹ of League principles is the best method of dealing with such a situation.

3. The extraordinary and unnecessary violence of the measures adopted by Japan to break down Chinese obstruction contrast unfavourably with the much more skilful use of force by Russia in similar circumstances two years ago. On the other hand Japan has far more at stake than Russia had. She honestly believes that the maintenance of her economic position in South Manchuria is vital to her existence as a nation and that China has deliberately tried to undermine that position by building and running Chinese railways in such a manner as to ruin the South Manchurian Railway. She forcibly seized these Chinese railways only after every attempt to persuade the Chinese to negotiate a working arrangement that would safeguard Japan's vital interests had failed. Japan is therefore now in this position: the fundamental matters in dispute between her and China are of such a character as not to be susceptible of adjustment by League methods or in accordance with League principles and if at the League's behest she gives up the railways she has seized China will resume her obstructive tactics and Japan will have no remedy. The problem as Japan sees it is very like that which faced her in 1903: then she had to fight Russia or be ruined with every prospect of being ruined in any case. Now she must defy the League or be ruined and again there seems to be every prospect that she may be ruined in any case.

4. In dealing with the situation created by the Japanese *coup* of the night of September 18/19 there were two alternative objects which might have been made the goal of British policy. However anomalous and even wrong Japan's position in Manchuria may be, she has got to remain there and in the interest of both China and Japan as well as of the population of Manchuria, it is desirable that she should be able to pursue her economic aims in peace and with goodwill on both sides. His Majesty's Government might, therefore, have aimed at finding some formula which would have enabled the two parties to come together, negotiate a settlement of the immediate dispute and continue living together in comparative harmony in Manchuria.

¹ A marginal note at this point by Mr. Cadogan reads: 'Is it quite fair to talk of "academic" application? Is it possible for the League not to maintain the great principle (no settlement by force) of the Covenant and of the Kellogg Pact? If the League were sticking for some minor principle or rule or precedent, I agree that the League wd. be to blame. But can she do less than uphold this fundamental principle? She may fail to enforce it. I believe she wd. survive that failure. But if she willingly abandons it, she has ceased from that moment to exist. A.C.'

On the other hand the principles on which the League is founded demand that an aggressor shall gain no advantage by his aggression. If the League were to compromise with a basic principle such as this because in a particular case the aggressor was a first class Power the League would suffer a setback in public opinion which might have widespread and disastrous repercussions. It might for example affect the prospects of the Disarmament Conference next year. In the discussions at Geneva during September and October His Majesty's Government decided that greater weight attached to these latter considerations and the Council of the League accordingly passed their resolution of October 24th calling upon Japan to withdraw her troops to the railway zone within three weeks and stating that direct negotiations should not begin until evacuation was complete.

5. China, in spite of the futility and incompetence of her Government, has won a great diplomatic victory and Japan has been isolated and humiliated. The resolution however has not brought any nearer a settlement of the dispute for Japan will certainly not evacuate and negotiations cannot therefore begin. His Majesty's Government in deciding on their future course are therefore again faced with two alternative objectives between which a final choice must now be made without delay: they can either continue vindicating League principles or they can try and bring the parties together in negotiation.

6. Let us assume for the sake of argument that League principles must be vindicated and that the League with the co-operation of America can force Japan by economic or military sanctions to evacuate. The result of such a policy would be that China, elated and rendered intransigent [*sic*] by her cheap victory won with League support, would resume her policy of strangling the South Manchurian Railway. Japan by reason of the combined effect of the sanctions of the Powers, the loss of her trade with China and the destruction of her economic interests in Manchuria would be ruined and might sink into bolshevism, while Manchuria deprived of the steadying influence of Japan would sink into the same state of chaos and misrule as China proper has suffered from for the last twenty years. The League could only avert these consequences by herself assuming the responsibility for the government of Manchuria but this she obviously cannot do.

7. Nothing could be more disastrous to the League than to adopt for academic reasons a policy which led to such fatal consequences. Apart from the intrinsic objections to a policy of economic sanctions (which need not be argued here) the probable attitude of America provides an overwhelming reason why all thought of such a policy should be abandoned forthwith. During the recent proceedings of the Council at Geneva the co-operation of America was obtained in a very public and even dramatic manner. The first step therefore must be to invite the co-operation of America in the steps which it is proposed to take on November 16. America was willing to co-operate with the League because the kind of action which she could take under Article 2 of the Pact of Paris was similar to that which the League could take under Article 11 of the Covenant. The action of the League and

the action of America were parallel and similar and their action could therefore with advantage be co-ordinated. This however would cease to be the case immediately the League contemplated sanctions—either economic or military—as suggested in Lord Cecil's memorandum² in F 6091/1391/10. America could never in any circumstances contemplate using other methods than those of moral suasion and the force of public opinion. At the first sign that the League proposed to move³ (still claiming American co-operation) from Article 11 to Article 16 America could regard this as an insidious attempt to 'put teeth into the Pact' and public opinion would force the American government publicly to dissociate itself from any further co-operation with the League.

8. If these considerations should lead His Majesty's Government to the conclusion that it is neither possible nor desirable for the League to attempt to proceed to apply sanctions against Japan immediate steps should be taken to make it clear to China, Japan and America that that is in fact the basis of the policy which His Majesty's Government now proposes to adopt. It would not be fair to China to leave her for a moment longer under any delusion that the League will play the policeman and eject Japan for the benefit of China from Manchuria. As regards America it seems essential that His Majesty's Government should immediately take the lead in proposing that the continued co-operation of America with the League should be sought on the basis of the Pact of Paris and Article XI of the Covenant and that any proposal to move away from Article XI and apply the sanctions of Article XVI will be rejected⁴ by His Majesty's Government. As regards Japan it seems important that she should be made to realise that we have not lost sight of her side of the case and that our traditional friendship with and admiration for Japan is still one of the mainsprings of our policy in the Far East. A really hostile Japan might inflict serious injury on British interests in Shanghai where sixty per cent. of the total British interest is concentrated. For example, the Japanese rate-payers in the International Settlement vote as one man under the instructions of their Consul-General. The Japanese vote thus directed is strong enough to elect a council composed solely of Japanese and such a council might play havoc with the structure of 80 years of British effort. It is important that Japan should realise that British interests have nothing to gain from Japan's misfortunes, but that the prosperity of Japan is one of the objects of British policy.

J. T. PRATT

² No. 664.

³ A marginal note by Mr. Cadogan here reads: '“The League” will never propose it. But the Chinese may at any moment invoke Art. 15, and that ultimately, whether we like it or no, brings us up against the question of sanctions. We can't help it, unless we amend the Covenant. A. C.'

⁴ A marginal note by Mr. Cadogan here reads: 'We can't do this. See my note on preceding page [note 3 above]. A. C.'

No. 686

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 28, 9.30 a.m.)

No. 203 *Telegraphic* [F 6134/1391/10]

TOKYO, October 28, 1931, 12.55 p.m.

Sir Miles Lampson's telegram No. 304.¹

I trust His Majesty's Government will send no representative to Manchuria unless other Powers do same. We are already considered here to be chief opponents of Japan and there seems to be no reason why we should take the lead in what is a purely League of Nations business.

It is no doubt realised in Peking that resolution of October 24 is not binding on parties as it was not unanimous.

Repeated to Peking.

¹ No. 684.

No. 687

Sir M. Lampson (Peking) to the Marquess of Reading
(Received December 10)

No. 1591 [F 7385/1391/10]

PEKING, October 28, 1931

My Lord,

With reference to recent telegrams and despatches regarding the dispute between China and Japan over the Manchurian question, I have the honour to submit the following report on my recent visit to Nanking in connexion with the crisis in Sino-Japanese relations. While Peking was in the early stages of the affair a nearer and more central point for watching its development, I felt, as soon as the issues had become somewhat more clarified, and in view of the meeting of the Council of the League of Nations on the 13th October, that it was desirable that I should get into more direct contact with the Chinese Government at Nanking during the session of the Council of the League. While I was making arrangements to go south I received a message from the President of the National Government expressing a desire to see me.

2. Before reporting on what passed during my stay in the capital, it will be convenient to summarise the position, mainly on the basis of the documents so far published in China, at the time I left Peking. Following on the appeal made by China to the League of Nations for action under the Covenant, the President of the Council had addressed communications to the Chinese and Japanese Governments appealing to them to abstain from all action likely to aggravate the situation in Manchuria or prejudice a peaceful settlement while the Council sought by means of consultation with the Chinese and Japanese delegates adequate measures which would permit of the with-

drawal of the troops of both sides. To this communication China had replied expressing appreciation of the prompt response of the League and fully accepting the Council's recommendations. At the same time the United States Government had addressed notes to China and Japan expressing the hope that their respective Governments would abstain from further hostilities and so dispose their armed forces as to satisfy the requirements of international law and international agreements, and refrain from activities which might prejudice the attainment by amicable methods of the adjustment of their differences. To this communication China had in turn replied by taking this further opportunity to state her case, welcoming the interest shown by America, making reference to the relevance of the Kellogg Peace Pact of 1928, and emphasising the restraint shown and the correct attitude hitherto adopted by the Chinese in the face of the unprovoked aggression of Japan. The Japanese Government, on the other hand, replied making it clear that it did not desire the intervention of any third party in the dispute, which, it was claimed, could be satisfactorily adjusted between the two countries concerned. On the 30th September the Council of the League had, before adjourning, adopted nine resolutions [a resolution]¹, to the following general effect: note was taken of the Chinese and Japanese statements, the former [latter]¹ that Japan had no territorial designs in Manchuria, and that the Japanese troops would be withdrawn as speedily as possible in proportion as the safety of Japanese life and property was assured, and the latter [former]¹ that the Chinese Government would be responsible for the safety of Japanese life and property as the Japanese troops withdrew and Chinese authority was re-established; note was taken of the assurances of both sides that all necessary steps would be taken to prevent any extension of the incident or aggravation of the situation: the Council urged both parties to do all in their power to restore normal relations, requested them to furnish full information of developments, and announced its decision to meet again on the 14th October, unless, in view of such information as might be received from the parties or from other members of the Council with regard to the development of the situation, a further meeting should no longer be necessary. The Chinese delegate at Geneva had taken the opportunity of these resolutions to press again the proposal, which he had already made, for a commission of neutrals to be sent to Manchuria to watch the withdrawal of the Japanese troops; and a few days later the Chinese Government addressed notes to the representatives in China of the foreign Governments concerned requesting the despatch to Manchuria of representatives of the members of the Council of the League to report on the progress of the evacuation. As the situation was by this time highly critical, and it was essential that Your Lordship should be kept fully and promptly informed of events on the spot, I arranged, without reference to the Chinese request, and as a normal measure within my own discretion, to send members of my staff to Manchuria to keep me, and through me Your Lordship, fully posted on developments. During the next few days we waited to see whether the Japanese troops would be withdrawn to the railway zone

¹ This amendment was made on the file copy by Mr. MacKillop.

before the 14th October, while counsels of moderation were addressed to both parties to the dispute. Instead, however, of withdrawal taking place, the situation was aggravated by further acts by the Japanese forces, including the air bombing of Chinchow, with the object, it seems, of terrorising the Liaoning Provincial Government, which had been transferred there from Mukden, as well as the despatch of armoured trains and aeroplanes to other points, with the alleged object of dispersing hostile concentrations of Chinese troops. In the meantime, the Chinese had reacted with the inevitable anti-Japanese manifestations and boycott, which, though generally kept well under control, were widespread and severe. On the 11th October the Japanese Minister handed to the Chinese Government at Nanking a memorandum calling for the cessation of the anti-Japanese boycott movement, which, it was maintained, was being conducted as an instrument of national policy, and thus constituted a hostile act, for the consequences of which the Chinese Government would be held responsible, and an aggravation of the situation in violation of the assurances given to the League of Nations. To this communication the Chinese Government replied in a memorandum charging Japan with violating by her hostile acts the Covenant of the League of Nations, as well as the Peace Pact of Paris and the Washington Nine-Power Treaty, reviewing subsequent developments and Japan's failure to withdraw her troops and her further hostile actions amounting to acts of war, and declining responsibility for the refusal of individual Chinese citizens to purchase Japanese goods. Finally, the Japanese Government had notified the Council of the League that it had been compelled to forgo its decision to withdraw the Japanese troops by the 14th October, owing to the inability of the Chinese authorities to assure the safety of Japanese life and property in the regions in question. The Japanese Government took the opportunity to make its position clear on the general issue: All the actions undertaken by the Japanese military authorities in South Manchuria since the 18th September had been of a purely defensive nature; and the only safe solution of the dispute was by direct negotiation, without the intervention of any third party, between the two countries concerned which would permit the eventual withdrawal of the Japanese troops. China, on the other hand, placing her case in the hands of the League, insisted on the complete withdrawal of the Japanese troops before there could be any question of negotiation, while she pointed out that, as regards the safety of Japanese life and property, she could not assume responsibility therefor until the Japanese troops had been withdrawn and Chinese authority re-established. A vicious circle, resulting in complete deadlock, had thus already been created; and it was in these unpromising circumstances that the Council of the League of Nations met again on the 13th October to resume consideration of the problem.

3. I left Peking by air on the 14th October, accompanied by Mr. Teichman, Chinese Counsellor to His Majesty's Legation, and Mr. Price, private secretary, and arrived in Nanking the same afternoon, Marshal Chang Hsueh-liang having kindly placed his private aeroplane at my disposal for the journey. At Nanking I was joined by Mr. Ingram, Counsellor to His

Majesty's Legation, who had been acting as Legation representative in the capital. Since the beginning of the crisis Mr. Ingram had established and maintained the closest possible contact with the more important members of the Chinese Government, and particularly with Mr. T. V. Soong, the Minister of Finance. Nominally, Mr. Frank Lee, the Vice-Minister for Foreign Affairs, had been placed in charge of the Waichiaopu after the resignation of Dr. Wang, but actually the direction of China's case in the Manchurian crisis was largely in the hands of Dr. Soong, assisted by a special foreign affairs committee, which included amongst its members well-known diplomats and politicians from the North, such as Dr. W. W. Yen (Minister designate to Washington), and Dr. Wellington Koo, whose services had not previously been sought by the National Government. Dr. Rajchman, Medical Director of League of Nations, who, by a coincidence, was paying one of his periodical visits to China in connexion with League co-operation in the establishment of the Chinese health services, was also in Nanking, residing in Dr. Soong's house. Dr. Rajchman, an enthusiastic believer in and worker for the League, did not disguise his strong sympathies with China in the dispute, and appeared to be acting as unofficial liaison between the Chinese Government at Nanking and the Secretariat of the League at Geneva.

4. On the evening of the day of my arrival in Nanking I saw the Acting Minister for Foreign Affairs and later the Minister of Finance, and was thus able to get to grips with the situation without delay. I took the opportunity, in accordance with my instructions, of urging moderation and stressing the vital importance of avoiding any precipitate action. Both seemed to realise this, but pleaded the difficulty of keeping their public quiet and emphasised the dangerous reaction which would follow any failure of the League to do justice to China's case. I also took the opportunity of mentioning, as a purely personal idea of my own, the possibility of negotiations in the presence of neutral observers, following the precedent of the Shantung negotiations at the Washington Conference.

5. On the following morning, the 15th October, I had an interview with the President, who, like the other members of the Government, received me in the most friendly manner. We had a long, but somewhat inconclusive, conversation, in the course of which I used similar language to that which I had already used to Mr. Lee and Dr. Soong, commending the restraint hitherto shown by China, counselling continued moderation, and (in view of the wild talk which had been going about) urging as strongly as I could the folly of extremes, no matter what the provocation. When we touched on the question of direct negotiations, and I put it to His Excellency that it was clearly desirable that sooner or later both parties should be brought together with a view to discussing their differences and endeavouring to solve the underlying causes of the present crisis, General Chiang insisted, like the Vice-Minister for Foreign Affairs and the Minister of Finance, that the essential pre-condition to any direct negotiation must be the withdrawal of the Japanese forces and a return to the *status quo ante*.

6. On the following day, the 16th October, I saw the President again

privately at his request. Having, in the meantime, received your Lordship's telegram No. 2 from Geneva,² I invited General Chiang's observations, quite informally and without commitment, on the three points on the lines of which M. Briand was seeking a solution by conversations with both parties, namely, (1) withdrawal of Japanese troops, (2) observers to watch the transfer of authority from Japanese to Chinese in the evacuated areas, and (3) subsequent direct negotiation on fundamental issues, both sides retaining all rights under the Covenant. After due consideration General Chiang replied that points (1) and (2) were naturally acceptable to China, but that, as regards (3), while he saw no objection to direct negotiation after the restoration of the *status quo ante* the 18th September, League observers should be present at such negotiations.

7. On the 17th October the President again invited me to meet him, together with my French and American colleagues. In the course of a lengthy conversation covering the whole ground of the problem at issue, General Chiang made the following points: the danger, owing to the provocative actions of the Japanese, of a clash at Shanhaikuan and Shanghai; the importance of dealing firmly with Japan in the present crisis and of seeing the business through once and for all; and the impossibility of restraining the Chinese army should a clash occur inside the Wall, where the Chinese troops, unlike those in Manchuria, were spoiling for a fight with the Japanese. In conclusion, His Excellency denounced the tactics of the Japanese General Staff in seeking to take advantage of the preoccupation of the Powers with the world-wide economic crisis to wrest what they wanted by force from China, just as in 1915 they had taken advantage of the preoccupation of the rest of the World with the Great War to extort the notorious Demands of that year; and finally he declared to us, for the information of our respective Governments, speaking with great earnestness and intensity of purpose, that under no circumstances would the China of 1931, which was not the same as the China of 1915, yield to threats of force nor negotiate in any shape or form until the Japanese troops had been withdrawn and the *status quo ante* restored. He would sooner that China and his countrymen should go down fighting the enemy than that the ignominious surrender of 1915 should be repeated. On my side I took the opportunity to preach counsels of moderation once again, emphasising the importance from the Chinese point of view of keeping the other side in the wrong and affording them no pretext for justifying their actions; China had appealed to the League, which had responded by setting the necessary machinery in motion; the Council had indeed made quite a good beginning and we all hoped and believed their efforts would be successful; but, even if the appeal to the Covenant failed (which I personally declined to believe), there were the Paris Peace Pact and the Washington Nine-Power Treaty to fall back upon, both of which brought the United States of America directly into the matter.

8. Late in the evening of Sunday, the 18th October, I received your Lordship's telegram No. 10 from Geneva³ instructing me to address to the

² No. 631 was repeated to Nanking as Geneva telegram No. 2.

³ No. 649.

Chinese Government in the name of His Majesty's Government a communication calling their attention to article II of the Pact for the Renunciation of War, by which the contracting parties agreed that the settlement or solution of all disputes or conflicts of whatever nature or origin would never be sought except by pacific means, and expressing the confident hope that the two Governments concerned would refrain from taking any steps that might endanger the efforts already in progress to secure the settlement by peaceful means of the conflict which had arisen between them. I addressed a note, embodying this communication, to the Acting Minister for Foreign Affairs on the 19th October,⁴ identical action being taken by my colleagues concerned. Similar communications invoking the Paris Peace Pact were at the same time addressed to the Japanese Minister for Foreign Affairs at Tokyo, who, as I subsequently learned from His Majesty's Ambassador, while giving assurances that the Japanese Government would not resort to other than peaceful measures, contended that the boycott movement and other anti-Japanese manifestations of the Chinese could not be regarded as peaceful. The Chinese Government, seizing, as usual, on our note as affording yet another opportunity for stating their case, sent a vigorously worded reply referring to the unprovoked attack by the Japanese on Mukden and other cities in defiance of international law, the Pact for the Renunciation of War, and other international agreements, emphasising China's correct conduct in refraining from the employment of force to meet these acts of military aggression, entrusting the Chinese case unreservedly to the League of Nations, and undertaking to persist in seeking a settlement of all questions by pacific means. A day or two later I addressed a similar note to the Chinese Government on behalf of His Majesty's Government in the Irish Free State and received in due course the same reply.

9. In the afternoon of the 19th October the President again invited me, and the French and American Ministers, and on this occasion also my German colleague, to meet him. Again we had a long rambling discussion in the course of which General Chiang requested us to impress upon our respective Governments his desire that everything possible should be done to expedite the withdrawal of the Japanese troops, further delay in which was fraught with grave dangers; his earnest wish that neutral observers should be present to watch the arrangements for the withdrawal and after; and China's hope that the Council would not adjourn until the withdrawal had been completed; since Japan was playing for an adjournment *re infecta*⁵ as had happened on the 30th September. His Excellency also emphasised with the usual arguments the internal difficulties and dangers with which the Chinese Government would be faced, especially from the Left, if the Council failed to find a solution.

10. During these days I was in constant touch with other members of the Government and leading Chinese in Nanking, including Dr. Wellington Koo, who, though without any regular official position, was present in the

⁴ Not printed. See No. 649, note 2.

⁵ i.e. with the matter unfinished.

capital as the representative in diplomatic affairs of Marshal Chang Hsueh-liang and whose services had been enlisted by the National Government on the Foreign Affairs Committee. Meanwhile reports from Geneva indicated that little or no progress was being made towards finding a solution of a situation which was rapidly drifting into complete deadlock. As I saw it, the Japanese Government (or the Japanese military party), who had seen and carefully noted the success of the Russians in 1929 in browbeating the Manchurian authorities *without reference to the rest of China and without the effective intervention of the foreign Powers*, were determined to do the same thing and settle once and for all with Chinese evasion and obstruction in Manchuria. They laid their plans accordingly and, at the proper moment when the rest of the world (as in 1915) was occupied with other troubles, they struck, on the night of the 18th September. But the circumstances were very different to those in which the Russians acted in 1929 and they soon found that they had stirred up a veritable hornets' nest, both in China and amongst the foreign Powers. Nevertheless, having taken this step with their eyes open to the risks involved, they did not now intend to withdraw. Japan had thus seized all South Manchuria and was determined to hold it until she had (as in 1915) forced from China all she wanted. China, weak and disunited, had replied by adopting a passive attitude and appealing to the Covenant of the League of Nations and the Peace Pact. Meanwhile, as was inevitable, a severe and widespread anti-Japanese boycott had started in China, a movement which, as usual fanned and originally organised by the Kuomintang offices, had undoubtedly become deep seated and to a large extent spontaneous. Thus, while the Council at Geneva sought by every means open to them to find a solution of the deadlock, the two antagonists had already seized their respective strangleholds on one another, the Japanese by means of the occupation of South Manchuria, which they refused to evacuate until China came to terms on outstanding questions, and the Chinese by the boycott, which they refused to relax until the Japanese had evacuated South Manchuria; so that, apart from the efforts being made at Geneva, it had become a question of which party would be the first to give way under the pressure of the other side.

11. In the early morning of the 20th October I received Your Lordship's telegram No. 13 from Geneva⁶ suggesting that it might be useful if I were to use my influence with my Japanese colleague with a view to impressing upon him the necessity for his Government to go as far as possible in meeting the views which the Council were urging upon them. The Japanese Minister resides in Shanghai and judges it better to remain there during the present crisis. I accordingly lost no time in arranging to pay a flying visit to Shanghai, leaving Nanking the same afternoon by air, so that I was able to meet Mr. Shigemitsu in the evening of the 20th October. Having just received Your Lordship's telegram No. 6 from Geneva⁷ and a repetition of Your Lordship's

⁶ This telegram does not appear to have been repeated to the Foreign Office.

⁷ The reference is uncertain, but is possibly to a repetition to Nanking of Geneva telegram No. 5 to Tokyo: see No. 646, note 1.

telegram to Tokyo No. 6,⁸ I gave Mr. Shigemitsu the gist of the latter message and the sense of your conversations with Mr. Yoshizawa and pressed him as strongly as I could, taking as my text M. Briand's formula as given in your telegram No. 2, and enlarging on the necessity of Japan agreeing to evacuation under the eye of neutral observers as leading up to direct negotiations with China. My Japanese colleague, with whom I am on excellent terms, was outwardly unresponsive, and argued the justice of Japan's case and her justification for settling the controversy without the intervention of a third party. On my side I maintained that Mr. Shigemitsu must share the general desire to get away from the present situation of tension; I had been preaching moderation to the Chinese side, perhaps not without success, but Japan must also be moderate, and she stood committed to evacuation under the Council's resolutions of the 30th September. Mr. Shigemitsu, while not admitting my arguments, undertook to report to his Government what I had said. Throughout our conversation I was careful to emphasise that I spoke as a true friend of Japan's of many years' standing, and that I was appalled at the prospect opened by any failure to reach a solution of the controversy; I repeatedly pointed out that, in the interests of both countries, some basis of compromise must be found, and that a saner and more reasonable atmosphere must be induced, when both sides could approach the matter more dispassionately; and I urged that on the Japanese side this should take the form of agreeing to the League formula regarding evacuation.

12. It is unfortunate that, according to a Reuter report from Tokyo, dated the 24th October, this conversation with Mr. Shigemitsu was made use of by the press in Japan to attack His Majesty's Government in the United Kingdom, and to charge them with taking sides with China against Japan in the dispute. A copy of this Reuter message⁹ is attached. I doubt whether Mr. Shigemitsu was privy to this breach of confidence.

13. I left Shanghai early next morning to fly back to Nanking. My brief visit enabled me, however, to discuss with His Majesty's Consul-General, *inter alia*, the dangerous situation which had arisen in the International Settlement owing to the anti-Japanese manifestations of the Chinese students and agitators and the provocative behaviour of a section of the Japanese residents and of the Japanese marines, who had been landed for the purpose of patrolling the Japanese districts of the Settlement. On the 18th October serious disturbances had occurred in the Japanese factory section, an armed clash being narrowly avoided. It was obvious that there was grave danger (seeing what had happened at the outset of the trouble in Hong Kong) that Chinese and Japanese might take advantage of the shelter of the International Settlement to vent their feelings against one another, in which case, should it become necessary to take drastic action to maintain law and order, the Municipal Police might well become involved, as in the incident of the 30th May, 1925, which arose out of an anti-Japanese demonstration. I accordingly instructed His Majesty's Consul-General to keep in close touch with the Municipal Council in the matter, and to suggest to the Chairman

⁸ No. 644.

⁹ Not here printed.

the desirability of keeping the Japanese members of the Municipal Police force as much as possible in the background at the present time of crisis (the riots of the 18th October had been aggravated by the presence of two Japanese Municipal Police constables), and also to use his discretion in urging moderation on the local Chinese and Japanese authorities—the latter were openly advocating stronger action, i.e., opening fire on the demonstrators. For my part, on my return to Nanking, I took the matter up vigorously with the Acting Minister for Foreign Affairs and other influential Chinese in the capital. I spoke to Mr. Lee very seriously, warning him of the disastrous consequences that might ensue from any clash between the Municipal Police and Chinese in the suppression of anti-Japanese disturbances in the Settlement, and begged him to take strong measures to restrain his nationals. His Excellency said he would take immediate action, though the difficulties on the Chinese side were very great; and he referred to the provocative action of the Japanese marines in parading the streets, &c., and expressed the hope that similar counsels of moderation were being addressed to the Japanese authorities. My American colleague took similar action with the Acting Minister for Foreign Affairs; and I understand that His Majesty's Ambassador was good enough to put in a word at Tokyo. The situation at Shanghai has since been easier.

14. During the next few days, the 21st to the 25th October, the proceedings at Geneva were followed by the Chinese Government with close attention and in an atmosphere of alternating depression and hope. Finally, the news came through of the final proceedings of the 24th October and the adjournment of the Council till the 16th November, after the recording of the Council's resolution, which had received the votes of all the delegates except the Japanese. I was dining informally with the President the same evening, the 24th October, and, though the position was at that time not very clear, His Excellency intimated that China, while not entirely satisfied with the results obtained, having placed herself in the hands of the League and desiring to give the Council all possible support, was prepared to accept the resolution. From what General Chiang subsequently said to me, however, and from the general attitude of the Chinese at Nanking, I gathered that China was, in fact, exceedingly pleased at the outcome of the proceedings at Geneva, where, as Dr. Soong put it, the moral justice of China's case was fully endorsed.

15. In the meantime, as regards the internal Chinese background to this international dispute, which was occupying the entire time and attention of the League of Nations at Geneva, it is disappointing to have to record that the bickerings between the Canton party and the Nanking Government have continued without so far any definite settlement being reached. However, the Canton delegates arrived in Shanghai, and direct discussions between them and the President and his supporters were at last set in train, during my stay in Nanking. I lost no opportunity of impressing on the members of the Chinese Government, from the President down, the vital importance of effecting a real reconciliation between all factions at this critical time.

16. The Council having adjourned on the 24th October, I returned to the North three days later to attend to the current work of His Majesty's Legation at Peking, during the two or three weeks before the League sessions at Geneva are resumed on the 16th November. The President kindly placed his private aeroplane at my disposal for the journey from Nanking to Peking. Before leaving, on the 26th October, General Chiang Kai-shek invited me and my French and American colleagues (the German Minister having left Nanking) to meet him again for a final talk. He opened the conversation by expressing his warm appreciation of the proceedings at Geneva, and of the support China's case had received from the friendly Powers, and plainly intimated that the Chinese Government were highly gratified at the results of their appeal to the League. His Excellency then turned to the Council's resolution of the 24th October and assured us that, regardless of what Japan might do regarding it, China was determined to carry out its terms. He therefore invited us to nominate our representatives to be associated with the Chinese authorities for the purpose of observing the arrangements for the transfer of the evacuated areas as provided for in the resolution. In reply, we undertook to report at once to our respective Governments, without whose authority we could not well proceed in the matter. No points of particular importance were touched upon in the rest of the conversation, but I took the opportunity to emphasise the importance from the Chinese point of view of taking all possible care to guard against incidents which might be held to justify the Japanese attitude and of sending the best available Chinese troops and officials to take over the evacuated areas as and when the Japanese withdrew; this was all the more necessary in view of the alarming spread of brigandage in South Manchuria consequent on recent events. (This aspect of the matter had indeed been causing me some preoccupation from the outset; seeing that, while the Japanese had by their military action effectively destroyed the machinery of Chinese administration, civil and military, in South Manchuria, and had subsequently taken active steps to prevent its re-establishment, the Chinese Government was now called upon to assume immediate responsibility for the maintenance of peace and order if and when the Japanese troops withdrew.) I should add that the President had asked me to come and see him half an hour in advance of my colleagues in order that we might have some private conversation on the Manchurian question and other subjects first. At this private interview His Excellency expressed his sincere gratitude for the assistance rendered to China by Your Lordship and Lord Cecil at Geneva. I took the opportunity, anticipating Your Lordship's instructions, to communicate to him the substance of Geneva telegram No. 164 to the Foreign Office,¹⁰ in which Lord Cecil remarked on the omission of the Chinese delegate to indicate that his Government would do all in their power to implement the negotiations and expressed the view that the Chinese Government would strengthen the favourable position secured for them by their delegates' able handling of their case at Geneva if they would nominate representatives to discuss the transfer of the occupied territory and show their

¹⁰ No. 681.

readiness to carry out the Council's wishes in every respect. The President at once replied that this was in fact their intention on which they had already decided to act; their representatives would be appointed immediately, after consultation with Marshal Chang Hsueh-liang; and he proceeded to invite me to nominate British observers in language similar to that employed at the joint interview with my colleagues later on.

17. To sum up the position when I left Nanking on the 27th October, after a fortnight's discussion the Council had been unable to bring the two parties together or find a solution of the conflict. They had accordingly recorded a draft resolution, accepted by all the members of the Council, including China, with the sole exception of Japan, who had voted against it. In this resolution the Council recalled the resolution of the 30th September, and the various assurances given by both Governments in regard to the early withdrawal of the Japanese troops, the protection of Japanese life and property, the non-aggravation by both sides of the existing situation, and the absence on Japan's part of any territorial designs in Manchuria; and proceeded to call upon Japan to begin immediately the withdrawal of the Japanese troops, so that the evacuation might be completed before the next meeting of the Council; and upon China to make the necessary arrangements, in connexion with the taking over of the evacuated territory, for ensuring the safety of Japanese life and property in the areas affected and to associate with the Chinese authorities designated for the purpose the representatives of other Powers to follow the execution of the arrangements in question. The resolution further recommended the Chinese and Japanese Governments immediately to appoint representatives to arrange the details of all points relating to the evacuation and the transfer of control over the evacuated territory; and, *as soon as the evacuation was completed*, to begin direct negotiations on outstanding questions, particularly those arising out of recent incidents, as well as those relating to the railway situation in Manchuria; for which purpose the Council suggested that the two parties should establish some form of conciliation committee. Finally, the resolution decided that the Council would adjourn till the 16th November, unless its President should convoke an earlier meeting. From the accounts of the proceedings at Geneva which have so far reached China it seems that the Japanese delegate was faced with an impossible task in seeking to justify the attitude of his Government in the face of the logical conclusions of the President of the Council and to refute the charge that Japan was insisting on the negotiation of a 'fundamental settlement' while in armed occupation of Chinese soil. This appears to have been realised by the Japanese Government, who, two days later, on the 26th October, issued a statement explaining and defining their attitude.¹¹ According to this statement 'certain small contingents of Japanese soldiers still remaining outside the railway zone are insistently demanded by the danger to which the large population of Japanese in that region are exposed'. (But no mention is made of the fact that this unfortunate situation is largely the making of the Japanese themselves nor of the systematic activities of those

¹¹ This statement is printed in *League of Nations Official Journal*, December 1931, p. 2514-

small contingents in preventing the re-establishment of Chinese civil or military authority.) The statement goes on to say that 'the presence of such a limited number of troops is quite incapable of being represented as a means of dictating to China Japan's terms for a settlement of the present difficulties. Nothing is further from the thoughts of Japan than to bring armed pressure to bear upon China in the course of these negotiations.' But, the statement continues, Japan is firmly determined 'to suffer no abridgment or diminution of the rights and interests of Japan', and she insists that China must negotiate, not only on the subject of the withdrawal of the Japanese forces, but also on the subject of certain basic principles, which are defined in five points, namely:—

- (i) Mutual repudiation of aggression.
- (ii) Respect for China's territorial integrity.
- (iii) Suppression of 'organised movements interfering with the freedom of trade'.
- (iv) Protection for Japanese in Manchuria.
- (v) Respect of Japan's treaty rights in Manchuria.

Shorn of its verbiage, this statement amounts to a declaration that Japan demands from China, as the price of evacuation and the cessation of military action, the complete suppression of the anti-Japanese boycott movement and the recognition by the National Government of China of the agreements and understandings regarding Japan's special rights in Manchuria extorted from China during the period of the Great War and before. The Council of the League of Nations has now definitely gone on record as disapproving this attitude on the part of the Japanese Government. It remains to be seen whether Japan will ignore this solemn expression of the League's view. Seen from the Chinese angle, Japan appears to have made one mistake after another, beginning with her initial blunder in taking military action without first exhausting the League machinery for the settlement of disputes by pacific means, followed by her continued military aggression in South Manchuria after the Council's resolutions of the 30th September, including the gratuitous bombing of Chinchow, and concluding with the ill-advised boycott note, the attitude of her delegate at Geneva, and the statement of the 26th October above referred to. But, if the old agreements of 1905, 1915, 1917,¹² &c., are to be regarded as valid, Japan has a good case against China in regard to Manchuria. This, therefore, seems to me to be the fundamental point at issue, namely, the validity of these old agreements, on which Japan's 'treaty rights', that is to say, her special rights and interests, in Manchuria are based and which were admittedly in great part extorted from China by force. And, in view of the irreconcilable views of the two parties as to the future of Manchuria, whatever the outcome of the present conflict may be, I can see no fundamental solution unless and until, either China voluntarily surrenders her claim to Manchuria as an integral part of the Chinese republic (and I

¹² For the agreements of 1905 and 1915 see Nos. 505, note 4, 728, note 2, and 406, note 1: for the agreements of 1917 see John V. A. MacMurray, *op. cit.*, vol. ii, pp. 1347-52.

cannot believe that the present generation of Chinese will ever do so), or Japan comes into line with the rest of the world by abandoning her policy of political penetration in Manchuria, with all the instruments of such a policy, including a concession railway, an army of occupation in the guise of railway guards, and so on, and becomes content to pursue her interests in Manchuria along purely commercial and economic lines. I have the honour in this connexion to refer to my despatches from Nanking Nos. 326 and 327, Tour Series [to Peking]¹³ covering copies of the minutes of two conversations I had with Dr. H. H. Kung, Minister of Industry, and Mr. Uyemura, the local Japanese representative, at Nanking on the 23rd October.

I have, &c.,

MILES W. LAMPSON

¹³ i.e. Sir M. Lampson's despatches Nos. 185 and 186 Tour Series to the Foreign Office: not printed.

No. 688

The Marquess of Reading to Sir M. Lampson (Peking)

No. 327 Telegraphic [F 6134/1391/10]

FOREIGN OFFICE, *October 29, 1931, 6.45 p.m.*

Tokyo telegram No. 203.¹

I consider that we have no option but to accede to Chinese request, but our nominees should not actually proceed until we are sure of identical action on the part of other Powers.

Repeated to Tokyo No. 135.

¹ No. 686.

No. 689

The Marquess of Reading to Lord Tyrrell (Paris)

No. 295 Telegraphic [F 6119/1391/10]

FOREIGN OFFICE, *October 29, 1931, 7.30 p.m.*

Manchuria

1. The Council resolution of October 24 calls upon Japan to complete the withdrawal of her troops into the railway zone before November 16 and recommends that both Governments should enter into direct negotiations as soon as evacuation is completed. The Japanese case, as I understand it, is that China has for some years past embarked on a deliberate policy of strangling the South Manchurian Railway and that if the Japanese troops are withdrawn there is no guarantee that China will not resume this policy and again adopt the dilatory tactics that prevented the negotiation of any

agreement. As Japan regards her economic interests in Manchuria as vital to her national existence she believes that premature withdrawal now would only force her to repeat at a later date the *coup* of September 18. There is therefore very little prospect that, if matters are left to take their course, Japan will have taken any steps to comply with the Council resolution by November 16, and the question therefore arises whether anything can be done in the meanwhile to save the Council from being faced with a deadlock when it meets.

2. On the one hand, it is difficult for the Council to abandon the principle that disputes may only be settled by peaceful means, and it would seem difficult for the signatories of the Pact of Paris to look on while Japan ignores Article II of that instrument.

3. On the other hand, I quite understand that it would be extremely difficult for the Japanese Government, in the position in which they now find themselves, simply to yield to the Council and comply with its resolution, even if they were minded to do so; and even on the assumption that the Japanese Government are willing to recede from the position they have hitherto maintained, it would be necessary to build a bridge over which they could retreat.

4. I am tempted to believe that this may not be impossible, by consideration of the following facts:—

5. The Japanese Government published a statement on October 26 enumerating five points on which they demand direct settlement with China. These five points correspond generally with the five points which were published in the press of October 20 [21]¹, except that the only one that presented real difficulty—the fifth point—is now reworded ‘respect for treaty rights for Japan in Manchuria’.

6. At the same time Chinese representative, referring to certain observations made at the last sitting of the Council, wrote a letter to M. Briand on October 24 saying that China was bound by the Covenant to a scrupulous respect for all treaty obligations and was determined loyally to fulfil all its obligations under the Covenant. The Chinese Government would undertake to settle all disputes with Japan as to treaty interpretation by arbitration or judicial settlement and would be willing to conclude with Japan a treaty of arbitration similar to that recently concluded between China and the United States or to those concluded recently in increasing numbers between Members of the League.²

7. It occurs to me that if Japanese and Chinese representatives could be got together to discuss evacuation as foreseen in Council resolution, [the] two Governments might be advised with reference to the above statement to instruct those representatives to begin discussion of the point regarding treaty rights. Japan might then be able to effect and excuse complete evacuation by telling her people that she had secured the point about direct negotiation on treaty rights and thus save her face.

¹ See No. 680.

² This letter is printed in *League of Nations Official Journal*, December 1931, p. 2513.

8. It is true that in this discussion of treaty rights the difficulty must arise ultimately that China will differentiate between treaties and deny that some of them are valid. China might offer to refer this point to the Permanent Court of International Justice and Japan would probably refuse. I would not minimise the difficulty of ultimately finding a solution of this point, but if in the meanwhile evacuation could be secured, a great deal would have been done.

9. I should be glad if you would discuss the question with M. Briand, who did at one stage of the negotiations at Geneva make a proposal which would have had a very similar result, but the Japanese Delegate then refused to entertain it. You might at the same time suggest to M. Briand the desirability, if he concurs in these ideas, of submitting them to the United States Government and ascertaining whether they would approve them and be prepared to assist in influencing the parties to act as desired. I would associate myself with his efforts by sending a similar telegram when he had communicated his text to us.

Repeated to Washington, No. 759, Tokyo, No. 136 and Peking, No. 328.

No. 690

Sir M. Lampson (Peking) to the Marquess of Reading

(Received October 31, 9.30 a.m.)

No. 593 Telegraphic [F 6237/1391/10]

PEKING, October 30, 1931, 4.55 p.m.

Following received from Mission No. 190 of 28th October.

Following is personal message to Lord Reading from President Chiang Kai-shek who through Waichiaopu requests favour of transmission. Begins.

The resolution adopted on October 24 by Council of League of Nations by a unanimous vote of its members other than Japan represents fruit of labours of civilization in direction of maintenance of world peace. China promptly accepted this resolution in spirit of full co-operation with all the other Powers in common effort to prevent use of force to seek settlement of international disputes.

On behalf of Chinese Government and people I take the opportunity of expressing our thankfulness to His Britannic Majesty's Government and people for full support freely given to China's cause which has become world's cause. I feel especially grateful for unique active manner in which you yourself and Lord Cecil as His Britannic Majesty's able representatives took part in the interests of justice and fair dealing in deliberations of the Council which have borne a result acclaimed by the whole world.

While we believe Japan will realize wisdom of respecting opinion of the

world by completely withdrawing her troops before November 16 we earnestly hope that members of Council will continue their efforts to cause Japan to carry out the resolution of the Council without the least delay.

Nanking October 28 1931.

Chiang Kai-shek signature and seal. Ends.

No. 691

Lord Tyrrell (Paris) to the Marquess of Reading

(Received October 30, 9.45 p.m.)

No. 240 Telegraphic [F 6233/1391/10]

PARIS, October 30, 1931, 8.30 p.m.

Your telegram No. 295.¹

M. Briand is in the country but I made a communication to Ministry of Foreign Affairs today in accordance with your instructions. I was informed that M. Briand had addressed a note last night to the Japanese representative on the Council pointing out that Chinese representatives had on October 24 undertaken to respect treaties. It seemed to him that Japan had thus received satisfaction and that she could evacuate forthwith.²

I asked whether Ministry of Foreign Affairs thought it desirable that we and possibly United States Government should support M. Briand's communication in Tokyo. Ministry of Foreign Affairs seemed to think this would be premature for the moment.³ They informed me that His Majesty's Ambassador at Washington had not yet supported his French colleague in urging United States Government formally to approve Council's resolution of October 24. They urged that he should do so at once.

Repeated to Washington, Tokyo and Peking.

¹ No. 689.

² This letter is printed in *League of Nations Official Journal*, December 1931, pp. 2515-6.

³ The Prime Minister here made the following marginal note: 'Thoroughly agree. Caution!'

No. 692

*Memorandum respecting the Proceedings of the Council of the League of Nations
on the Manchurian Question, September 22 to October 24, 1931*

[F 6350/1391/10]

FOREIGN OFFICE, October 30, 1931

On the 21st September the Chinese Government appealed to the Council under article 11 of the Covenant against the Japanese occupation of Mukden and certain other towns in Manchuria, and the seizure by Japanese troops of

important railways in Manchuria. The Council met on the 22nd September, and decided (1) to address an urgent appeal to the Governments of China and Japan to refrain from any aggressive action; (2) to endeavour, in consultation with the Chinese and Japanese representatives, to find a means of enabling the troops of both countries to withdraw; (3) to supply complete information regarding the proceedings of the Council to the United States Government.

The Council held several further meetings, and on the 30th September adopted a resolution, of which the text will be found in Annex A.¹

In the period subsequent to the 30th September, the Japanese troops not merely failed to withdraw into the railway zone, but showed every sign of consolidating their occupation. The Chinese Government, in view of these developments, asked for an earlier meeting of the Council, and the Council was therefore convened again on the 13th October. On the eve of this meeting the Secretary-General received and circulated to the members of the Council a message from the United States Secretary of State expressing satisfaction with the handling of this question by the 'well-tried machinery of the Covenant of the League', and stating that the United States Government, acting independently through its diplomatic channels, would try to reinforce League action, and to show that it was not oblivious to the obligations assumed by Japan and China under the Pact of Paris and the Nine-Power Treaty.

Prior to the first meeting of the Council on the morning of the 13th October, the committee of five members (Spanish, British, French, German and Italian), which had specially occupied itself with the Manchurian question at the last session, held a private meeting to consider the question of the presidency. The Spanish Minister for Foreign Affairs, M. Lerroux, who had presided at the previous session, had been unable to come to Geneva for the special session, and his representative, M. Madariaga, did not like to assume the presidency. It was therefore agreed that the presidency should pass to the country which would normally hold the presidency at the next session, i.e., France, and that M. Briand should accordingly preside at the present session.

A short discussion on procedure also took place at this private meeting. The desirability of securing close American co-operation was unanimously recognised. At the same time, it was feared that if the United States Government were to take simultaneous action in invoking the Pact of Paris, as suggested by Mr. Stimson, there might be a danger that the case would come before two tribunals, the signatories of the Pact and the Council of the League, and that the Japanese Government might be able to play one off against the other and escape between the two. It seemed desirable, if by any means possible, to induce the United States Government to recognise that the Council, by the action it was taking under Article 11 of the Covenant, was, in fact, trying to hold Japan to her obligation, under Article 2 of the Pact of Paris, to seek peaceful means of settlement, and that the United

¹ Not printed. See No. 547, note 2.

States could use its influence most effectively by endorsing the action of the Council and backing its efforts in that direction.

The rest of the 13th October was spent in two public sessions, at which the Chinese and Japanese delegates respectively stated their points of view. The Chinese delegate (Dr. Sze) made considerable play with the bombing of Chinchow and the further bombing, which had just been reported, of two stations on the Peking-Mukden Railway, which were respectively 130 kilometres and 170 kilometres west of Mukden. He repeated that his Government would never negotiate direct with the Japanese Government so long as the Japanese troops were not withdrawn.

The Japanese delegate (Mr. Yoshizawa) read a long statement to the effect that the Japanese troops in Manchuria were on the defensive, and that such military action as had been taken was a measure of protection. He repeated his assurance that Japan had no territorial designs, but declared that withdrawal was dependent on the security and protection of Japanese nationals in Manchuria. He also protested against the anti-Japanese agitation throughout China, which he attributed to the action of the Chinese Government.

Dr. Sze showed considerable skill and suppleness in debate, whereas Mr. Yoshizawa virtually confined himself to reading the document which he had brought with him, and appeared incapable of replying impromptu to any of Dr. Sze's remarks. The general impression created by these proceedings, both on the Council and on the public, was therefore, not unnaturally, distinctly unfavourable to the Japanese case.

In adjourning the discussion M. Briand emphasised the responsibility resting on both parties, and announced that the Council would seek ways and means, by private discussion, of finding a way out of the deadlock.

The proceedings now diverged for several days from the main channel of the dispute, and the Council devoted its energies to the no less delicate problem of American collaboration. The United States representative, who (in the absence on leave of Mr. Hugh Wilson, the United States Minister at Berne) was Mr. Prentiss Gilbert, the United States Consul-General in Geneva, had indicated both to the Secretary-General and to individual members of the Council that his Government was exceedingly anxious to assist the Council in its efforts to reach a solution of the Manchurian question, and would consider favourably an invitation to participate in some form in the proceedings of the Council. On the morning of the 14th, at a private meeting of members of the Council, not including the interested parties, it was decided that the President should concert with the United States representative the terms of the invitation to be sent to Washington. The intention at this point was to inform the Japanese delegate of the action taken, but not formally to invite his concurrence. The terms of the invitation were settled without much difficulty, it being decided, with the approval of Mr. Prentiss Gilbert (who had been in communication with Mr. Stimson), to invite the United States Government 'to send a representative to sit at the Council table so that he may be in a position to consider with the Council the relationship between the provisions of the Pact of Paris and the present

unfortunate situation in Manchuria, and at the same time to follow the deliberations of the Council with regard to other aspects of the problem with which it is now confronted'. It appeared, however, that the Japanese Government had strong objections to this procedure, and that it would be impossible to dispense with a meeting of the Council to consider the question of the invitation. This meeting was held in private on the afternoon of the 15th October.

Mr. Yoshizawa proved extremely stubborn. He read a statement to the effect that Article 4, paragraph 5, of the Covenant prescribed the conditions under which States not members of the Council could be invited to sit, and he did not consider that the United States of America could be regarded as an interested party in the present dispute under the terms of that article. The Covenant made no provision for invitations to non-member States to send observers to sit at the Council, and he was not clear what the legal rights and obligations of a State accepting such an invitation would be. Finally, if the Council had the right to invite a non-member State, which the Japanese Government contested, it could only do so by a unanimous vote, as the matter was one of substance, not of procedure. Mr. Yoshizawa proposed that the matter should be referred to a committee of jurists for examination.

During the course of the discussion, the Japanese delegation circulated a memorandum (Annex B).² On the same day a reply was returned thereto by M. Briand as President of the Council (Annex C).²

M. Briand and Lord Reading in turn pointed out to Mr. Yoshizawa that the argument based on Article 4, paragraph 5, of the Covenant was entirely misplaced, since that Article referred to the conditions on which a member of the League, which was not a member of the Council, should be invited to sit with the full rights of a member of the Council for the consideration of disputes which interested it. It was not proposed that the United States representative should sit as a member of the Council with full rights, but simply as an observer for the purpose of exchanging information. The Council had already agreed unanimously to exchange information with the United States Government regarding the present situation, and the new proposal merely provided that this exchange of information should take place with an observer sitting at the Council table rather than by correspondence. Such a decision was certainly a matter of procedure, which the Council could decide if necessary by a majority vote.

Mr. Yoshizawa maintained his standpoint with great pertinacity, and refused to indulge in any exchange of arguments, continuing to repeat at frequent intervals that he was unable to accept the point of view urged on him by M. Briand and Lord Reading. He also reiterated, on several occasions, his proposal that the matter should be referred to a committee of jurists; but when asked by the President whether he would be prepared to accept the advice of the committee if it were set up, he returned a negative reply.

² Not printed. Annexes B and C comprised the correspondence of October 17 between Mr. Yoshizawa and M. Briand which is printed in *League of Nations Official Journal*, December 1931, pp. 2488-9, where M. Briand's letter is wrongly dated October 18.

A complete deadlock having been reached, M. Briand declared that there was no alternative but to take a vote of the Council. He first put to the vote the proposal of the Japanese delegation that the matter should be referred to a committee of jurists. This proposal was supported only by Mr. Yoshizawa and the German delegate (who had taken no part in the discussion), and was rejected by all the other members of the Council. The proposal to send the invitation to the United States Government was then carried by the votes of all the members of the Council except Mr. Yoshizawa, who voted against it. It was decided that a public meeting should be held the next morning to approve the text of the invitation.

The public meeting held on the morning of the 16th October resolved itself into a repetition of the proceedings of the private meeting on the previous evening. Mr. Yoshizawa repeated his objections with, if possible, even greater emphasis and pertinacity, and the arguments on the other side were once more urged with force by M. Briand and Lord Reading. The Spanish and German delegates intervened to urge that the Council should dispose of this question and return to the Manchurian issue, with which the Council had assembled to deal. The decision of the previous evening was, therefore, put into effect, and the invitation to the United States Government despatched in the form of a letter, enclosing the proposal of the President which had been approved by the majority of the Council. The text of this proposal will be found in Annex D.³

Mr. Prentiss Gilbert had already been authorised by Mr. Stimson to accept the invitation, and handed in a formal letter of acceptance in the course of the same afternoon.

On the evening of the same day a public meeting was held, at which the invitation and its acceptance were formally read by M. Briand, who invited Mr. Gilbert to take his seat at the table. Mr. Gilbert replied to M. Briand's words of welcome in a speech, which (as he privately informed the members of the Council) had been textually approved by Mr. Stimson, expressing satisfaction at the invitation and at the appearance of a United States representative at the table of the Council. All the members of the Council in turn, except the Japanese and Norwegian delegates, then associated themselves briefly with M. Briand's welcome to Mr. Gilbert. The delegate of Panamá alone broke the conspiracy of silence on a point which was in the minds of everybody present, by expressing the hope that the United States Government would before long associate itself with the League on a more regular basis.

On the following day (the 17th October) Mr. Gilbert called to see the Secretary of State, and informed him that Mr. Stimson had been somewhat disappointed that no steps had been taken formally to invoke the Pact of Paris, which was the ostensible reason for the appearance of a representative of the United States Government at the Council table. He informed the other principal members of the Council in the same sense. It had not been clear to any of the members of the Council that Mr. Stimson would make this a

³ Not printed. See *ibid.*, p. 2322.

condition of the presence of a United States representative at the Council table, but all the members readily agreed that everything should be done to meet his wishes. Those members of the Council who possessed authority to do so, at once instructed their representatives in Nanking and Tokyo to call the attention of the Chinese and Japanese Governments, as signatories of the Pact of Paris, to the provisions of that Pact, and, in particular, to Article 2, by which the parties agree that the settlement of all disputes or conflicts should never be sought except by pacific means. The other members undertook at once to recommend their Governments to follow suit. This action was taken on the 17th October, and M. Briand undertook to notify all signatories of the Kellogg Pact, including the United States Government, of the action taken.

In the meanwhile, on the same day, at a private meeting attended by the United States representative but not by the interested parties, the Council had made an attempt to return to the matter of the dispute. M. Briand informed his colleagues that his private discussions with Mr. Yoshizawa had not led to much result. It was clear that the Japanese were trying to secure that direct negotiations on Sino-Japanese relations in Manchuria should begin before they had evacuated the occupied area. He thought that if the pledge of evacuation could be secured in exchange for an assurance that neutral observers should be sent to see that Japanese lives and property were respected, and a definite date fixed for evacuation, the Chinese Government might be induced to begin direct negotiations with the Japanese Government before the evacuation was complete. Lord Reading expressed doubt as to the wisdom or desirability of pressing the Chinese Government to enter into direct negotiations before the evacuation. It was agreed that an attempt should now be made to draft a resolution for submission to the interested parties.

A further private meeting was held on Sunday, the 18th October, for this purpose, and a long draft resolution prepared. After recalling the terms of the resolution of the 30th September and noting the assurances given by the Japanese Government of their intention to evacuate, and by the Chinese Government of their readiness to assume responsibility for Japanese lives and property in the area, the resolution went on to invite the Japanese Government to complete the withdrawal of its troops into the railway zone within a maximum period of three weeks, and to recommend that on the day when evacuation was completed direct negotiations should begin on all questions outstanding between the two Governments, including those arising out of recent incidents and out of the railway situation in Manchuria. This resolution, pending further consideration, was not officially communicated to the parties, but it was understood that M. Briand would continue his negotiations with them on these lines.

Nothing further transpired on the 19th on the main question. But on the evening of that day Mr. Prentiss Gilbert called on the Secretary of State and told him that he had just received instructions from Mr. Stimson to participate in no further secret sessions of the Council, and at the next public

meeting to withdraw from the Council table, after making a statement to the effect that the object of his temporary association with the Council had now been secured by the invocation of the Pact of Paris. Lord Reading at once telephoned to Mr. Stimson and represented the disastrous effects which the carrying out of these instructions might be expected to have on the prestige of the Council, both in dealing with the present dispute and with other matters, not excluding the Disarmament Conference itself. It would be said that the United States Government, having accepted the invitation to participate in the Council, had at once realised the ineffectiveness of its procedure and decided to withdraw. It was clear to all the world that their objectives had not in fact been achieved, since beyond the formal invocation of the Pact of Paris no progress had yet been made towards a solution which could be accepted by the two parties. Mr. Stimson insisted that Mr. Gilbert should take part in no further secret meetings of the Council, but eventually agreed, after much persuasion, that Mr. Gilbert should, for the present, continue to attend public meetings of the Council. He would, however, prefer that he should be seated at a separate table as an observer, rather than at the Council table.

The discussions between M. Briand and the interested parties continued on the 20th October; and on the 21st October, in the hope of reaching a compromise acceptable to the Japanese Government, M. Briand, with the approval of the Committee of Five, submitted to Mr. Yoshizawa for consideration alternative proposals, under which the Chinese and Japanese Governments would agree to enter immediately into negotiations regarding the evacuation of Japanese troops and the safeguarding of Japanese lives and property, in order to permit of evacuation being completed in the shortest possible time. The Council would then adjourn until the 12th November to leave time for the evacuation to be completed, and the parties would be invited to furnish the Council with information regarding the progress of evacuation. The Council would further invite both Governments to create a permanent Conciliatory Commission to consider, after the evacuation, all outstanding questions between them.

This proposal was communicated by the Japanese representative to his Government. It was decided by the other members of the Council that, in the event of the reply of the Japanese Government being unfavourable, the only course open to the Council would be to revert to the draft resolution prepared on the 18th October, to place it on record as the opinion of the members of the Council other than the interested parties (since it could not be formally carried without their consent), and adjourn for three weeks in order to see what effect these steps would have upon the Japanese Government.

On the afternoon of the same day, Mr. Yoshizawa informed M. Briand that he was unable to accept his compromise proposal, since his Government insisted that the Chinese Government should, as a prior condition to the withdrawal of Japanese troops, give an undertaking to fulfil its treaty obligations, in particular those concerning the railway situation in Manchuria.

The Council, at a private meeting on the morning of the 22nd October, therefore decided to communicate at once to the parties the resolution of the 18th October, redrafted in certain minor respects. This was done about 1 p.m. When the Council met in public in the afternoon, the Chinese delegate asked for postponement, on the ground that he had not yet received instructions from his Government regarding the draft resolution. This gave Mr. Yoshizawa an opportunity, on his side, to ask for further time, and the Council was therefore adjourned till the following day. Lord Reading left Geneva on the evening of the 22nd October.

At the next meeting, on the afternoon of the 23rd October, the Chinese delegate accepted the draft resolution on behalf of his Government, and Mr. Yoshizawa proposed a redraft of several of its most important clauses. The most important effect of his redraft was to make the Japanese undertaking to withdraw their troops into the railway zone dependent on 'a *détente* to be brought about by the conclusion of a preliminary agreement between the Chinese and Japanese Governments as to the *fundamental principles* governing normal relations, that is to say, affording an assurance that the lives of Japanese nationals and the protection of their property will be safeguarded'.

The ambiguity of the words 'fundamental principles' was increased by the fact that the Japanese delegation had previously communicated privately to the Secretary-General and to several of the other delegations a note of five points on which the Japanese Government intended to insist as conditions of evacuation, and the last of these points referred to 'necessary arrangements to be concluded between the Japanese and Chinese railway administrations for the prevention of ruinous competition, and for the carrying into effect of existing Sino-Japanese treaty provisions'. But the Japanese delegate could not now be got to admit in public that the 'fundamental principles' included this point.

Lord Cecil and M. Madariaga both endeavoured to persuade Mr. Yoshizawa to elucidate the phrase 'fundamental principles'. They pointed out that if these principles merely referred to the protection of Japanese life and property, as they appeared at first sight to do, Mr. Yoshizawa's text did not differ in any essential point from the text of the draft resolution which Mr. Yoshizawa declared himself unable to accept. If, on the other hand, the 'fundamental principles' embraced other demands, the Council had a right to know what these demands were. Mr. Yoshizawa professed himself unable to respond to this appeal for information, and, while insisting that the only demands made by the Japanese Government were those essential for the safeguarding of Japanese life and property, he declared that he was not in a position to anticipate the view of his Government as to what the 'fundamental principles' comprised. This was a point which could only be settled between the parties when the negotiations began.

The Council then adjourned to the following day, the 24th October, on which two meetings were held in a final attempt to bring about an agreement between the parties. This proved, as had been anticipated, impracticable, and at the evening meeting a vote was taken, first on the Japanese amend-

ment and then on the draft resolution itself. In each case the Japanese delegate was in a minority of one. The text of the draft resolution, as approved by the majority of the Council, is attached (Annex E).⁴

The President, in the concluding speech, expressed the gratitude of the Council to the United States Government for its collaboration, and adjourned the session until the 16th November.

A. C.

⁴ Not printed. See No. 674, note 2.

No. 693

Sir F. Lindley (Tokyo) to the Marquess of Reading (Received December 1)

No. 512 [F 7122/1391/10]

TOKYO, October 30, 1931

My Lord,

In continuation of my despatch No. 494¹ of the 16th instant, I will endeavour to place on record the various phases through which the Sino-Japanese dispute has passed during the last fortnight; and to explain the course of events from the local point of view.

2. In Manchuria itself there has been no incident so spectacular as the bombing of Chinchow; but there have been minor bombings, one of which, at any rate, was subsequent to a declaration by the Japanese Government to the effect that all bombing planes had been withdrawn. This was literally true; and the bombs dropped appear to have been small ones, such as can be released from almost any plane. But the effect on public opinion and at Geneva was, no doubt, as I did not fail to point out to Baron Shidehara, deplorable. It was one more instance of the irresponsibility of General Honjo and his subordinates. On the 26th October, the Military Attaché learned from the General Staff that a detachment of Japanese troops had been sent to Taonan to deal with brigands, who had destroyed the railway line which passes through that place and which has been constructed with Japanese money, on which no interest has ever been paid. Taonan lies dangerously near the Soviet sphere of influence, and it is not expected that the troops will stay there longer than is really required. But the whole state of affairs in Manchuria outside the occupied area seems, as far as we can judge, to be deteriorating; not merely through the increase of banditry, but also owing to the recent inauguration of what may be called Sinn Fein tactics by the Chinese, who have begun to commit isolated murders of officers and men. In these circumstances, there is not the smallest possibility that evacuation will be complete by the 16th November. It seems more likely, indeed, at the time of writing, that the Japanese will find it necessary to send troops, at any rate temporarily, to points they have not hitherto visited.

3. As regards this vexed question of evacuation, we are moving in a vicious

¹ Not printed.

circle. The Japanese, by their first occupation, and still more by their subsequent operations and attitude, have destroyed the authority of the Young Marshal. While this authority may have been as nebulous as some declare, it is certain that no other authority exists. Nor have the local Japanese attempts to set one up either met with any success or looked like doing so. The Japanese statements to the effect that immediate evacuation would imperil Japanese lives and property are therefore not merely true, but likely to remain so for an indefinite time. In the occupied area the position seems far more satisfactory. Local Chinese committees have been organised and seem to be functioning with a minimum of Japanese supervision. But they show no real signs of being able to extend their authority.

4. Both my French colleague and I have more than once pointed out to Baron Shidehara the unwisdom of the policy of ruthless hostility to the Young Marshal followed by General Honjo—the latest reported instance of which is the despatch to Peking of his wife, concubine and effects from Mukden. We have argued that it would ill suit Japanese interests to have Manchuria in a state of chaos, which would probably end in some form of Soviet domination over the whole of the North down to Changchung; and we have expressed our doubts as to whether any successor to the Young Marshal is likely, after the end of the honeymoon, to be more friendly to Japanese interests than he is himself. The Baron has usually met our arguments with non-committing grunts, except when he has declared categorically that Japanese policy regarding the Young Marshal would be decided by the Government and not by General Honjo.

5. It may well be asked, if the picture drawn above is true to life, whether the Japanese Government do not really intend to annex in fact, if not in theory, the whole of South Manchuria. Neither my colleagues nor this Embassy believe they have any such intention. In that case, how do they propose ever to evacuate? To this I believe the true reply is that they are a good deal less concerned with the safety of their subjects than they pretend; and that they would be ready to see some of those subjects exposed to considerable risk to life and limb, provided the vital interests of Japan in Manchuria were first secured. If, for instance, the Chinese would agree to direct negotiations now and could come to agreement concerning the famous fundamental principles of Mr. Yoshizawa, I think we should hear little more concerning the safety of the Japanese and Koreans, and we should soon find the Japanese forces back in the railway zone. This is how I interpret Baron Shidehara's oft-repeated remark that previous agreement on certain fundamental principles can alone appease popular passions sufficiently to allow of evacuation being carried out with safety to Japanese subjects in Manchuria. So much for the purely Manchurian side of this affair.

6. When my last despatch was written the Council had just decided to invite an American to sit with them, and had thereby overridden the Japanese objection, which was ostensibly based on juridical grounds. It is necessary to dwell for a moment on this incident, since, seen from here, it had much to do with the acrimonious character of the subsequent proceedings. Presumably

the true motives for inviting the American was [*sic*] to enhance the prestige of, and draw the United States nearer to, the League. There can hardly have been other reasons, since it is obvious that the Americans could have been kept equally well-informed of what was passing without formally attending meetings of the Council, and it is generally considered here that American pressure could be more effectively applied to Japan from outside the League than from inside. The American Chargé d'Affaires is particularly insistent on this. The above motives, if they were the real ones, did not occur to the Japanese at first. When they did, they were resented as showing, more or less in the words of Baron Shidehara to me, that the League was more concerned with itself than with dealing with a question of vital interest to Japan. But the first reaction of the Japanese was real indignation at what was regarded as an attempt by the League to bring the United States into the ranks of a common front against Japan; and they were ill-advised enough to lodge an immediate objection on formal grounds. Whether there was a genuine misunderstanding as to the scope of the invitation or not is doubtful. It is possible that this was an after-thought and used as a face-saving device. In any case, the invitation irritated the Japanese, and stiffened, if it did not induce, that extreme rigidity which was certain to mark their attitude once they suspected that pressure was going to be applied. The objections of the Japanese to the invitation must inevitably have irritated the Council on their side; and the episode, to put it at the lowest, certainly did not assist the solution of the Manchurian dispute.

7. Nevertheless, the presence of the American at the Council board produced a concrete result in the formal invocation of the Pact [of Paris] by all the Powers represented at Geneva. My French colleague was, rather fortunately, the first of us to receive his instructions, and presented a note on the evening of the 18th October. Count de Martel told me that Baron Shidehara made a wry face at first, but, after some conversation, 'digested' the contents. I presented my note the next day, and naturally found the Baron prepared. He reiterated what he had often declared before: that Japan had not the smallest intention of resorting to other than peaceful measures. But he added that the Japanese Government could not regard as peaceful the boycott and other anti-Japanese action of the Chinese authorities. He trusted that the Powers shared his views and had made it clear to Nanking.

8. On the 21st October I received a telegram from the Minister for External Affairs at Dublin requesting me to make representations to the Minister for Foreign Affairs at the instance of His Majesty's Government in the Irish Free State and transmitting the text of the telegram I had already received from Your Lordship at Geneva. Although it was rather doubtful whether this telegram should, strictly speaking, have been acted upon (see Foreign Office Circular of 6th December 1930)² without instructions from Your Lordship, I thought it best to make no difficulties and called that morning on the Vice-Minister for Foreign Affairs, explained the constitutional position and in-

² Not printed. This circular referred to the channel of communication between Dominion Governments and foreign Governments.

formed him of my instructions. My other colleagues handed in their notes in due course, some few days later; and on the 23rd October I received two notes from Baron Shidehara enclosing memoranda setting forth the Japanese reply. This was briefly to the following effect: The action taken in Manchuria had been necessary for defence; the Japanese Government had no idea of recourse to war; they were ready to negotiate with the Chinese at any time; the anti-Japanese movement in China was in no sense spontaneous, it was acquiesced in by the Chinese Government and such acquiescence could not be regarded as compatible with Article 2 of the Pact of Paris.

9. Since the invocation of the Pact of Paris the Americans, so far as we can judge here, have remained completely passive. The emissaries, whose despatch to Manchuria was reported previously, have returned to the Embassy here and, presumably, have presented a report. No part of it has been allowed to leak out, and the American Chargé d'Affaires told me yesterday that he did not believe his Government intended to make any further move, at any rate for the present. Mr. Neville is a competent and friendly colleague, but he is, unfortunately, kept very ill-informed by his Government. Mr. Cameron Forbes, the Ambassador, who is shortly due back from leave, is less competent and kept in equal ignorance by the State Department, so that there is some excuse for my French colleague to write a short despatch to the Quai d'Orsay, as he tells me he is doing, 'sur l'insuffisance de la représentation américaine à Tokyo'. Before leaving the subject of the Americans, I should add that they are enjoying an excellent press for the moment—being held up as the only friend of Japan against the ignorant *bloc* of countries represented on the Council of the League.

10. On the 18th October I received Your Lordship's telegram No. 6 from Geneva³ instructing me to do everything possible to bring home to the Japanese Government the serious nature of the issue involved. They had done more than any other Government to build up the authority and prestige of the League and yet, now that a question concerned themselves, they showed no inclination to fall in with its wishes. Their attitude had, up to now, been one of blank negation. The example of Japan was being watched by the whole world, and if they failed in their obligations to the League the effect would be calamitous. I had, both on my own initiative and in accordance with my instructions, used language of this kind more than once to the Minister for Foreign Affairs without effect. The last occasion had been on the 17th October (my telegram No. 7 to Geneva⁴ of that date), when I had had a long informal conversation with the Baron, in which I had urged him to show a conciliatory attitude, to do something to hasten evacuation and, above all, not to allow any misplaced considerations of prestige to prevent the Japanese Government accepting any reasonable proposal. The Baron, after expatiating on the validity of the Japanese objections to the presence of an American at the Council board, both from the juridical and the practical points of view, and after emphasising the painful impression produced in Japan by those objections being overruled, had replied that he was certain

³ No. 644. ⁴ It has not been possible to trace this telegram in Foreign Office archives.

agreement could be reached once the Chinese realised the League would not support them. He referred to his experience at Washington in 1922, when the deadlock over the Shantung question came to an end the moment Secretary of State Hughes agreed to direct negotiations between himself and Mr. Sze. It was an entire mistake to believe that the Japanese Government wished to exert pressure on China by means of the occupation. The occupation had no such effect; and the Chinese had negotiated formerly with Japanese troops in occupation of Tsinan. They could perfectly well do so again and would find the Japanese most reasonable, yet when the new Chinese Minister had recently discussed informally with him the questions at issue, the only result had been a severe reprimand from Nanking. He was really anxious to evacuate, but it was impossible to leave Japanese subjects to the mercy of the marauders and soldiers at present roaming the countryside.

11. The Minister had seemed more conciliatory than usual during this conversation, a fact which gave me hope that something might be effected when, armed with Your Lordship's telegram No. 6, I saw him again on the 19th. But I found that his attitude had hardened notably in the last two days. After I had read to him most of Your Lordship's telegram and done my best to impress upon him the gravity of the issues at stake, the Baron replied that the proposals hitherto made had been such as no Japanese Government could accept. He had received from Mr. Yoshizawa a report of the conversation with Your Lordship contained in Your Lordship's telegram No. 5^s of the 16th October and it had evidently disturbed him profoundly. He declared solemnly that no Japanese Government could accept a proposal either to evacuate before negotiations began or to fix a definite date for the completion of evacuation. As regards the presence of delegates of the Powers in Manchuria, he did not see how they could afford any additional guarantee for the safety of Japanese lives and property. To this I replied that, if the proposal were made, the Japanese Government simply must accept it; and I gained the impression that they would do so provided negotiations began at once and no fixed [*sic*] date were fixed for the completion of evacuation. Finally, the Minister added that the idea was abroad that the Powers were bent on coercing Japan. He had done his best to discredit the notion which, if it once gained a hold, would produce results which could only be described as 'terrible'.

12. This conversation, coupled with the attitude of the press, the discovery of a plot by young staff officers to assassinate the Minister for Foreign Affairs, and information reaching me from reliable quarters, led me to take a most serious view of the situation; and I felt it my duty to warn Your Lordship that public opinion was in a very dangerous state and might well force the Japanese Government to disregard the resolutions of the League. In these circumstances, it seemed absolutely necessary to find some formula of compromise such as I had previously suggested, i.e., that direct negotiations with China and evacuation with observers from the Powers present should be begun at once and simultaneously.

^s Not printed. See No. 646, note 1.

13. On the 20th October I received Your Lordship's telegram No. 144 of the 18th October to the Foreign Office⁶ outlining a draft resolution which had been submitted to a private meeting of the Council, at which neither the Chinese nor Japanese delegates were present. The most important provisions of the draft were that evacuation should be completed within a period provisionally fixed at three weeks and that direct negotiations should then be immediately begun. There was to be a public meeting next day, i.e., the day before the telegram arrived at Tokyo, and, if a deadlock ensued, the Council would have to formulate its own proposals upon which the interested delegates would be consulted before they took the form of resolutions. On receipt of this telegram, I felt it my duty to warn Your Lordship that, when this draft became known here, it would cause an outburst of indignation which would make a reasonable settlement most difficult, and I ventured to suggest that the exasperating attitude of the Japanese Government and the blunders of their soldiers might lead the Council to lose sight of the essential facts that Japanese rights in Manchuria were considered by the whole nation as something sacred, and that the present crisis was due to the deliberate policy of the Chinese of undermining those rights and fostering anti-Japanese feeling by all means in their power.

14. It will be seen from the above that the greatest danger to a reasonable settlement has, in the opinion of this Embassy, and, I may add, of all those foreigners and moderate Japanese whom I know, been from the start that there should be any show of pressure exercised on Japan. It is easy to argue that the Japanese are unreasonable, that they should behave like other people, that they should accept the verdict of public opinion when it goes against them and that, if they don't, they must be induced to do so by some effective form of pressure. The answer is that, unfortunately, the Japanese are not reasonable when they believe their vital interests are involved; and that the mere hint of pressure, so far from rendering them more reasonable, makes them see red. In these circumstances my feelings may be imagined when I received Your Lordship's telegram No. 151 of the 20th October to the Foreign Office,⁷ reporting that Signor Grandi had lightly thrown out the idea of invoking Article 16 of the Covenant to bring the Japanese to reason. Your Lordship immediately deprecated any talk of the kind; but I felt it necessary to emphasise the danger of the suggestion. Feeling here was such that Japan was capable of defying the whole world though such defiance might well entail her ruin. It is indeed impossible to contemplate with equanimity the application of this Article to the present dispute, which, in its essence, is nothing more than a repetition of several previous incidents in the last ten years in China. Nor can it be believed that the prestige of the League would gain, when it was seen that the result of its mediation was to turn a local Manchurian affair into a world-wide disturbance of which the destruction of all British interests in Japan would be a mere incident. So strongly did I feel on this subject that I ventured once again

⁶ No. 656.

⁷ No. 666.

to revert to it in a personal telegram to Sir R. Vansittart of yesterday's date.⁸

15. The Ministers for Foreign Affairs assembled at Geneva obviously could not remain away from their respective capitals for much longer, and some decision had to be taken to allow them to leave. This fact was not the least unfortunate of the proceedings as seen from Tokyo. All who have done business with the Japanese agree that they are slow to make up their minds and slow to act. It is exasperating, but they are made like that. The Manchurian question is the most vital of all those interesting Japan and required a Cabinet decision on every point. Moreover, telegrams take longer to arrive from Geneva and to be decyphered than is perhaps realised; for both my French colleague and I were occasionally in receipt of proposals too late for our comments to be of any service. And it is a very different business for a Frenchman to make a comment and for the Japanese Government to come to a decision. These facts explain the apparent impatience of the Council at Japanese procrastination and the extreme irritation of the Japanese over what they considered the undue haste with which their most important interests were being treated. Further treatment of this theme is tempting to a professional diplomatist, but would swell this despatch unduly.

16. The draft resolution mentioned in paragraph 13 found no favour with Mr. Yoshizawa, who would consent neither to a time-limit to evacuation nor to the intervention of neutral officers; and on the 23rd October I received Your Lordship's telegram No. 156 to the Foreign Office,⁹ reporting that M. Briand had put new proposals before the Japanese delegate. The essential points on which these differed from the earlier ones were that: they dropped the time-limit for evacuation, substituting that it should be completed in the shortest possible time; omitted all reference to neutral officers and invited the two Governments to consider the erection of a permanent conciliation commission to consider, after evacuation, all questions at issue. If these proposals proved acceptable to the parties, they would be put before a public meeting on the morning of the 23rd. If they did not, the original draft resolution, mentioned in paragraph 13, to which incidentally the Japanese were known to be violently opposed, would be put before a public meeting on the afternoon of that day—i.e., the day on which I received the telegram.

17. On the same day, the 23rd October, I received two further telegrams from Your Lordship. The first, No. 159 to the Foreign Office,¹⁰ informed me that the Japanese reply was unfavourable in that it demanded, as a condition of evacuation, that the Chinese Government should undertake to fulfil their treaty obligations regarding railways in Manchuria. Thus Japan demanded a settlement of the dispute whilst in occupation of Chinese territory. This description seemed to me to go somewhat beyond the Japanese demand; since the most sanguine could hardly consider a bare undertaking by the Chinese to observe their treaty obligations as constituting a settlement of the many

⁸ It has not been possible to trace a copy of this telegram (No. 206) in Foreign Office archives.

⁹ No. 672.

¹⁰ No. 673.

complicated points at issue. Your Lordship's telegram went on to say that, in these circumstances, the original resolution would, after submission to the other members of the Council, be brought before a public meeting that afternoon (23rd October) and, if opposed by Japan, would remain on record as the Council's idea of a proper solution. The Council would then adjourn until the 16th November.

18. Your Lordship's telegram No. 15 from Geneva¹¹ was decyphered during lunch time, also on the 23rd October. It informed me that the resolution had been submitted, at the public session, to both parties. They had asked time to receive instructions and it was to be hoped that they would reach them by the evening of the 23rd. The text of the resolution had been telegraphed to me,¹² but there seemed some doubt as to whether Mr. Yoshizawa was keeping his Government properly informed. I was, therefore, to see the Minister, point out that the resolution gave Japan four of the five points she was believed to desire and, as regards the fifth point, provided for proper discussion of railway questions after evacuation was completed. I was fortunate enough to obtain an interview with the Minister at 2.30 in the afternoon. I had not then received Your Lordship's telegram containing the text of the resolutions; but found that Baron Shidehara was in possession of them. Nor had I heard previously of the five points of the Japanese Government; but he had an English text of these and pointed out that the Japanese point 4 was not covered by the resolutions, in that the latter did not guarantee the right of Japanese subjects to carry on their lawful occupations. To this I replied that the Japanese delegate could easily make a reservation on this subject. He then turned to matters of substance and reiterated that no Japanese Government could possibly accept 4A of the resolution providing for evacuation before the 16th November. We had been so often over this ground before that there was nothing new to be said; and I tried in vain to persuade the Baron that the resolutions did not constitute a one-sided decision in favour of the Chinese thesis. The Baron went on to complain bitterly of the haste shown by the Council which, apparently, had not waited for Mr. Yoshizawa to receive his instructions before framing their resolution; and of the fact that a suggestion put forward by Sir Eric Drummond, to the effect that negotiations regarding immediate evacuation and other matters should be begun at once, had never been pursued. I told the Baron I knew nothing of Sir Eric's suggestion and tried to impress upon him the very dangerous position into which Japan was drifting. He replied that no Japanese Government could possibly exist if it accepted the resolutions. I then hurried back to the Embassy to get off my telegram No. 19¹³ of the 23rd October; I do not know whether it reached Your Lordship before or after the meeting of the Council. The telegram containing the text of the resolutions arrived here at 5 p.m.

19. The final meeting of the Council took place on the afternoon of the 24th October, when a counterdraft, put forward the previous afternoon by

¹¹ No. 674.

¹² See No. 674, note 2.

¹³ It has not been possible to trace this telegram in the Foreign Office archives.

the Japanese delegate, was rejected. This made evacuation dependent on the settlement of certain 'fundamental principles'. Since Mr. Yoshizawa did not feel at liberty to divulge the exact nature of these principles, rejection of his draft was a foregone conclusion. These mysterious principles were, in fact, the five points mentioned to me by Baron Shidehara, and subsequently published by the Japanese Government. The reason Mr. Yoshizawa did not divulge them was, I learn confidentially from the Vice-Minister for Foreign Affairs, simply because his earlier instructions had been to communicate them confidentially to M. Briand, and he had stuck to those instructions in the absence of others after they had really become out of date. At any rate he has come in for a good deal of abuse from the Japanese press; and I observe from Lord Cecil's telegram No. 163 to the Foreign Office¹⁴ that he has forfeited all the sympathy which the press and public at Geneva might have been ready to accord. It might be a consolation to him to know that he has far from forfeited that of those who passed the 23rd October at this Embassy. Since the personality of Mr. Yoshizawa seems to have had not a little to do with the final result of the Council meeting, it may be as well to state that those who know him well consider him a competent and level-headed man. Very sparing of speech, even in Japanese, and expressing himself with great deliberation in any foreign language. It is quite probable that, like so many Japanese who know written English really well, he often misses the point of what is said. Owing to this he may have kept his Government insufficiently informed of what happened at Geneva; but he is far too conscientious and experienced a diplomatist not to have reported fully everything he himself grasped.

20. On the 26th October the Japanese Government issued a statement, of which a copy is enclosed for convenience of reference.¹⁵ It will be seen to contain most of the points mentioned by Baron Shidehara in his conversation with me. Naturally, the whole blame is thrown on the Chinese for their openly encouraged anti-Japanese agitation which, in defiance of treaties, &c., was intended to deprive Japan of her rights. The withdrawal of troops to the railway zone was impossible until negotiations on certain basic principles had been settled. These are the mysterious five points which are described in the statement as in entire accord with the aims of the League. They certainly seem reasonable enough. In addition to this statement, the Prime Minister announced publicly on the 28th October that Japan could not evacuate until agreement on these principles had been reached by direct negotiation.

21. It was to be expected that the result of the League meeting would be badly received by the press, nor were we disappointed. I have the honour to enclose herewith a summary of the press,¹⁶ made by Mr. Cunningham, Japanese Counsellor to this Embassy, from which it will be seen that the bitterest attacks were reserved for Great Britain and her delegates who were held responsible for the anti-Japanese nature of the League resolutions. Some of these attacks contained references to conversations between Sir Miles

¹⁴ No. 680.

¹⁵ Not printed. See No. 687, note 11.

¹⁶ Not printed.

Lampson and Mr. Shigemitsu, Mr. Matsudaira and Your Lordship and Baron Shidehara and myself which could scarcely have been known save through the Press Bureau of the Gaimusho. After some hesitation I called the attention of the Vice-Minister to this aspect of the campaign. I told him that I had not reported it to my Government, as I did not wish to envenom the atmosphere; but that it could do no possible good and made it difficult for us to carry on business with that frankness to which I was accustomed. Mr. Nagai naturally tried to throw the responsibility on other offices; but there have been no references of the kind complained of since I spoke. As a matter of fact I have little doubt that the culprit is Mr. Shiratori, head of the Press Bureau of the Gaimusho, who is an irresponsible official and liable to drink too much.

22. Before closing this far too long despatch, a short reference is necessary to the Russian aspect. Up to the last few days there seemed to be complete confidence here that nothing was to be feared from the quarter of the Soviets. Though this confidence has not disappeared, the General Staff informed Colonel Simson yesterday that it was pretty certain that arms, even including field guns, and officers, were being supplied by the Russians to certain Chinese bands in the north. And the papers announced at the same time that the Japanese Government had called the attention of the Soviet Government in the most friendly way possible to these proceedings. This evening's papers publish what purports to be M. Karakhan's reply¹⁷ to this gentle reminder. It has caused him unbounded astonishment, since there is not a word of truth in the accusations. I will endeavour to ascertain the real facts regarding this exchange of amenities as soon as opportunity offers. In the meantime, I have the honour to enclose copy of a memorandum¹⁸ by the Military Attaché dealing with this subject as well as with the situation in Manchuria in general.

I have, &c.,

F. O. LINDLEY

¹⁷ See Jane Degras, *Soviet Documents on Foreign Policy* (London, 1951, vol. ii, pp. 512-13.

¹⁸ Not printed.

No. 694

Letter from Sir E. Drummond to Mr. Cadogan

[F 6258/1391/10]

LEAGUE OF NATIONS, GENEVA, *October 30, 1931*

I wrote you yesterday¹ saying that I could not get any information from Washington. That was quite true as regards any official sources, but to-day I secured from a source that I cannot reveal, but which I think is absolutely certain (it is neither Sweetser² nor Gilbert) the views of the State Department relating to the last Council resolution. Whether it is Stimson or Castle I am not

¹ It has not been possible to trace this letter in the Foreign Office archives.

² Mr. Arthur Sweetser, a United States citizen, was a member of the League of Nations Information Section.

quite sure, but it is certainly one or the other. You will see that they are rather alarming, since it looks as if Washington has abandoned the Council position, namely, that the Council would not recommend direct negotiations while the [Japanese] troops were in possession of territory outside treaty limits. You will notice that there is mention of the Shantung precedent. If I remember rightly, the only direct negotiations which took place for that settlement were those relating to the means of withdrawal. I doubt whether any questions of principle were settled by direct negotiations as long as the Shantung occupation lasted,³ but you will be able to ascertain this better than I can. What is really rather disheartening in the affair is that the Americans seem to have given up any idea of pressing the question under Article 2 of the Kellogg Pact, and yet surely they cannot be content with Japan's answer, which simply said that it did not intend to resort to war. It seems to me that the occupation of territory to settle a dispute can hardly be held to be pacific means.

Perhaps your official information is better than what I am sending you, but the latter I believe expresses the inside mind of the State Department. You probably know that there is a wide breach between Stimson and Castle, and although I can only guess, I cannot help feeling that this is the latter's view rather than that of the Secretary of State.

Yours ever,
ERIC DRUMMOND

Please be *terribly* discreet in the use you make of my information on this point.

ENCLOSURE IN No. 694

There will be no comment from Washington on the League resolution. The presence of Japanese troops outside the treaty zone is not incompatible with the negotiations. Shantung evacuation method by means of direct negotiation simultaneous with evacuation is the best solution. The outbreak of war is unlikely. Further American action is possible in the form of consultation under the Nine Power Treaty or otherwise. We would view with alarm the withdrawal of Japanese troops now. We decline to decide even for ourselves whether the Council resolution is binding on Japan or China. Our only concern is that the solution be peaceable. We will not take further action unless hostilities seem likely.

³ A marginal note by Mr. Orde at this point reads: 'Yes, the treaty and additional minute of understanding were agreed on at Washington during the occupation. C. W. O.'

No. 695

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received October 31, 9.30 a.m.)

No. 208 Telegraphic [F 6236/1391/10]

TOKYO, October 31, 1931, 2.45 p.m.

Lord Tyrrell's telegram No. 240.¹

I agree that it would be better for the time being to leave the French to act alone here. Everything we do is liable to arouse suspicion and excites resistance.²

Repeated to Peking.

¹ No. 691.

² The Foreign Office was informed on November 1 that the Prime Minister had expressed his agreement.

No. 696

The Marquess of Reading to Sir R. Lindsay (Washington)

No. 765 Telegraphic [F 6233/1391/10]

FOREIGN OFFICE, October 31, 1931, 2.50 p.m.

Paris telegram No. 240.¹

You should not at present at least act as suggested in last two sentences, which are I think based on a misunderstanding. But it would be well if you could ascertain informally how Secretary of State regards Council resolution and situation generally and how he thinks it should be further dealt with.

Repeated to Paris, Peking and Tokyo.

¹ No. 691.

No. 697

Sir M. Lampson (Peking) to Mr. Ingram (Nanking)

No. 305¹ Telegraphic [F 6240/1391/10]

PEKING, October 31, 1931

Foreign Office telegrams Nos. 326² and 327.³

Please inform United States Consul-General for United States Minister of the position: also French Minister if he is still in Nanking.

¹ This telegram was addressed to Nanking as No. 305 and was repeated as No. 596 to the Foreign Office, where it was received on October 31 at 9.0 a.m.

² Not printed. See No. 684, note 3.

³ No. 688.

2. You should inform Acting Minister for Foreign Affairs in reply to his note of October 28⁴ verbally that I have my men held in readiness and available as and when required provided other heads of Missions do the same. You should also let Minister of Finance know discreetly of our difficulty i.e. that there is no reason why we should act as lightning conductors for others. It may therefore be better to withhold the names of our representatives until the time comes when in accordance with terms of Resolution there is work for them to do. But as Dr. Soong knows I will depute men best suited for the work when and if the time comes for them to proceed.

Repeated to Foreign Office.

⁴ This note was presumably in confirmation of President Chiang Kai-shek's verbal request of October 26: see No. 687, paragraph 16. Cf. *Foreign Relations of the United States 1931*, vol. iii, p. 349.

No. 698

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received November 2, 9.0 a.m.)

No. 210 Telegraphic [F 6245/1391/10]

TOKYO, November 2, 1931, 4.10 p.m.

Press reports to the effect that His Majesty's Government are seeking advantages in China as price of support against Japan are increasing already strong anti-British feeling here and I think that it would be as well were I authorized to inform the Minister for Foreign Affairs that there is no truth in them and to ask him to make this fact known.¹

Repeated to Peking.

¹ Sir F. Lindley was authorized accordingly in Foreign Office telegram No. 142 of November 3. Sir M. Lampson referred to these rumours in his telegram No. 622 of November 8 and reported that he had told Mr. Yano that 'they were of course absolutely without a shred of foundation'.

No. 699

Mr. Patteson (Geneva) to the Marquess of Reading
(Received November 2, 5.25 p.m.)

No. 34 Telegraphic [F 6269/1391/10]

GENEVA, November 2, 1931, 5.20 p.m.

Following from Sir E. Drummond for Mr. Cadogan.
Begins.

Rajchman telegraphed Friday¹ that thoroughly reliable troops would be sent from within Great Wall for occupation of evacuated districts, that this

¹ October 30.

would necessitate considerable movement of troops towards Chinchow and that it was very important bombardment or other incidents should be prevented. He added that it was essential that these troops should be accompanied by neutral observers. I replied as follows: 'Please remember Council resolution of October 24 has no binding force as unanimity required not reached. Resolution of September 30 alone valid. Great prudence should therefore be exercised by Chinese Government for the present and measures taken to avoid possibilities of armed clash.'

I am being pressed by Gilbert to indicate to him line which I think United States Government should follow. I am telling him that point 5 of resolution of October 22² is that which in my view United States Government should urge on Japanese.

² See No. 674, note 2.

No. 700

Sir R. Lindsay (Washington) to the Marquess of Reading
(Received November 3, 9.30 a.m.)

No. 676 Telegraphic [F 6271/1391/10]

WASHINGTON, November 2, 1931, 6.56 p.m.

Your telegram No. 765.¹

Secretary of State is away but I have today seen Under Secretary of State who is in special charge of Manchurian affairs.

In the view of State Department, League of Nations resolution made a mistake in fixing definite date by which evacuation must be completed. They do not think that Japanese Government can possibly meet this demand and it seems to them that the Chinese delegate fairly outwitted the Japanese and led Council to incline the balance somewhat unduly in favour of his country. They think it injudicious too in any way to insist that evacuation must precede negotiation, as this attitude in their opinion must result in indefinite postponement of former: they would have preferred procedure similar to that adopted over occupation of Tsinan [Shantung] when Japanese Government was called on to withdraw within three months if possible and within six months in any case while negotiation was to proceed simultaneously. This worked very well at the time.

They believe that Japanese Government is trying to effect some kind of withdrawal now so that on November 16 it will have something, however small, to show to Council and they hope that it will be enough to enable Council to carry on. They very much doubt whether Council would ever be able to decide that one or other party to dispute was the aggressor.

Meanwhile they propose to make a representation to Tokyo in general support of the spirit of League's resolution. This has been under discussion

¹ No. 696.

for some days and several drafts have been prepared, but even now it is not certain whether representation would be written or oral or both. It would be urged verbally that Japan is in control of Southern Manchuria and that in the eyes of the world this places her in a position of responsibility for present situation, and in the wrong also: that they are unwise to insist on any (? general)² discussion of treaties when what Council of League is asking of them is a very much smaller matter. If representation is oral it would naturally be stronger than if written.

State Department feel no *disquietude* as to attitude of Soviet Government.

² The text is here uncertain.

No. 701

*Record by Sir V. Wellesley of a conversation with the
French Ambassador*

[F 6359/1391/10]

FOREIGN OFFICE, *November 2, 1931*

The French Ambassador called this afternoon and read to me a telegram from M. Claudel, the French Ambassador at Washington who apparently had received instructions from M. Briand, as the result of the Secretary of State's talk with M. de Fleuriau, to approach Mr. Stimson and urge upon him the desirability of the United States taking action at Tokyo in regard to the China-Japanese dispute in Manchuria.¹ Mr. Stimson, though sympathising with the object in view, said that he could not take up as strong a line as the League might wish, firstly on account of the delicate situation in the States and secondly because he feared that strong action at Tokyo might produce precisely the opposite result to that intended.

He then went on to say that according to American reports the Japanese would not evacuate as there was sure to be trouble if they did. He therefore felt that it was a mistake to fix a date for evacuation and that the League should take a more elastic view of this matter. At the same time it was clear that Japan intended to utilise her military position in order to consolidate her treaties with China, many of which were of a highly controversial character. This attitude he could not of course approve. Further he had to take into account the personal position of the Japanese Prime Minister and Foreign Secretary who were in real danger of assassination. He had therefore to walk warily but he would take some action in Tokyo.

¹ Sir R. Lindsay had been informed in Foreign Office telegram No. 758 of October 29 that 'it had been proposed to instruct you to enquire of United States Government whether they contemplated any action at Tokyo with the view of improving situation before Council met again on November 16. French Ambassador to whom Secretary of State had spoken on the subject tells us that your French colleague has been instructed to act with you in this sense. It has been explained to him that above instructions have not been sent to you, pending consideration of a different line of action.'

It was not clear from the telegram what action but M. de Fleuriau seemed to think he would recommend acceptance of the Council's Resolution.²

V. W.

² A report of this conversation was sent to Paris and Washington on November 9 in Foreign Office despatches Nos. 2692 and 1541 respectively.

No. 702

Letter from Sir E. Drummond to Mr. Cadogan

[F 6355/1391/10]

LEAGUE OF NATIONS, GENEVA, *November 2, 1931*

Herewith a copy of the record of a long conversation . . .¹ which I had with Gilbert.

He is rather distressed by certain newspaper articles which have been appearing, accusing the United States Government of inaction with regard to the resolution of the 24th October. I trust that what I said to him was on the lines on which you people have been working. The important thing, to my mind, now is to try to induce the Japanese to enter into direct negotiations with the Chinese on the sole point of evacuation and security, in which case, even if evacuation is not very far forward by the 16th November, the situation will certainly be improved.

There is one point on which Gilbert is right, viz., the great difficulty of co-ordinating the activities of the various Powers in a question of this kind when the Council is not sitting. But I do not see how to get over this for the time being.

Gilbert rather hopes, if the Council Meeting is held in Geneva—and I am glad that you think arguments in favour of it are piling up, though personally I shall share your regret if it is not in Paris—that he would be authorised to sit at the Council table under the same conditions as those which have obtained up to now. I told him that this would be by far the best, but that if his Secretary of State could not agree to such continuance, then the second best thing would be that he should remain as Observer. I pointed out to him that the Meeting on the 16th November was solely an adjournment, and not a new Meeting and that it would, perhaps, be worth emphasising this point in Washington.

I have been looking again into Article 15. I do not know that its utilisation would be as serious as some people fear, *vide* yesterday's 'Observer', since would not the first step be that I should ask that a Commission of Enquiry should proceed to Manchuria to make the full investigation required in the first paragraph of the Article? The report on such a Commission would have to be made within six months of the submission of the question under Article 15 (see Article 12), but this could well be done, and it might help us

¹ A personal reference is here omitted.

to clear up the whole of Manchuria. But this is only a thought for the future, as if we can once get evacuation under weigh [*sic*], we can then wait for developments as to the next stage.

Yours ever,

ERIC DRUMMOND

P.S. I expect that you will be seeing Sugimura within the next two or three days, as he is, I believe, going over to London soon. I send you some notes as to his ideas, since these may be helpful to you.

What about a mention of the affair in the King's Speech? I am told but I do not know for certain that Hoover² is going to say something on the subject on November 11.

E.D.

ENCLOSURE 1 IN No. 702

Record of Interview

GENEVA, November 2, 1931

Mr. Prentiss Gilbert came to see me this morning. I found him somewhat perturbed over the situation as regards Washington and the League, in connection with the Sino-Japanese dispute.

From what he had heard and learned from the Press, Washington seemed to be very doubtful as to what was the League policy. Washington was not clear as to whether the draft resolution of the 24th October had been adopted as the basis of that policy, and did not quite know how best to help forward the League's aims. The State Department had received, according to Mr. Gilbert, no indication as to what the League desired of Washington, and were unwilling to take action which might interfere with any negotiations which were now in progress between the President of the Council and the Japanese Representative.

I told him that I thought that M. Briand's note to M. Yoshizawa,³ of which he had had a copy, contained really the essence of League policy. The draft resolution of the 24th October had no legal force. I could not say, of course, how far individual Governments had urged the adoption of part, or the whole, of it at Tokyo. M. Briand's note, however, made it quite clear that the legal basis of League action was still the resolution of the 30th September. He would, however, observe that in that note M. Briand had laid stress on point 5 of the draft resolution of the 24th October, viz., the immediate appointment of representatives of the Chinese and Japanese Governments to arrange the details of the execution of all points relating to the evacuation and the taking over of the evacuated territory. It seemed to me that M. Briand had indicated thereby that, in his mind, the best method of giving effect to the Council resolution of the 30th September was by the appointment of these representatives. If these representatives were once appointed, and the negotiations on evacuation and taking over began and were proceeding satisfactorily, then I thought that the question of dates, such as the 16th

² President of the United States.

³ See No. 691, note 2.

November, fell into a secondary place. I was told that the United States Government thought that the period before the 16th November would not be sufficient to allow of adequate arrangements for evacuation and taking over. This might well be the case, but, provided that evacuation had begun, or that a satisfactory plan for evacuation had been drawn up between the representatives of the two Governments, the actual time limit was, to my mind, of little importance. Therefore, if I might make a suggestion, it would be that the United States Government might impress on the Japanese Government the importance of the immediate appointment of these representatives. The Chinese had recently sent a note requesting the Japanese Government to make these appointments, but on the 30th of last month this note was still unanswered. If we could get the negotiations on evacuation and taking over started, then, in effect, we should have turned the Japanese position and secured what was certainly the wish of Washington and the League that evacuation should duly take place as soon as security could be afforded by the Chinese Authorities and troops.

Mr. Gilbert said that he would convey the sense of my remarks to Washington. Did I suggest that the United States Government should take action at Tokyo, or by means of a public announcement that it supported the Council draft resolution of the 24th October?

I replied that I thought that it would be much better that a diplomatic *démarche* should be made at Tokyo by the United States Government on the particular point mentioned in Article 5 of the draft resolution. I thought that it would be a mistake to make this public, as the Japanese Government might resent public pressure of this kind, but, at the same time, it would certainly be useful if the United States made some sort of public declaration that they agreed generally with the principles set out in the draft resolution. This would not commit them to the question of date, which I believed the State Department considered a stumbling block.

Mr. Prentiss Gilbert told me that he had had a telegram from the State Department, saying that the Chinese Government had approached them with the request that they would appoint a representative under 4 (b) of the draft resolution. He said that the American Minister in China understood that the British Government had agreed to nominate representatives who would be ready to proceed if their services were required under this proposal. Could I give him any news on the subject?

I said that I believed that the information as regards the British attitude was correct. As to the French attitude, I understood that the French Government had not yet been approached by the Chinese Government on the subject. If they were approached, it might be that they would consider that, as the draft resolution had no legal force, it would be sufficient to utilise the services of the French Military Attaché who was on the spot. As regards the action of other Governments I had no information, but it seemed to me that they would probably follow the French lead.

E. D.

ENCLOSURE 2 IN No. 702

Note by the Secretary General

GENEVA, November 2, 1931

I received from Mr. Sugimura, through Mr. Harada,⁴ a message to-day, saying that he had negotiated with Mr. Yoshizawa for 12 hours, with the result that he had secured some fifty per cent. of what he wanted from him, and it was also agreed that his, Mr. Sugimura's views should be forwarded in full to Tokyo.

The result of the conversations seemed to be that the following suggestions would be submitted to Tokyo.

1. Mr. Yoshizawa would ask M. Briand to obtain confirmation from the Chinese Government of the statements made in his letter to him of the 29th October.

2. When this confirmation was obtained, it would be suggested from Tokyo that there should be two sets of direct negotiations begun at once but independently—the *first* would be as regards the evacuation and the taking over of the evacuated territory; the *second* would be negotiations on the five points.

I said that personally I saw very great difficulty in the Council recommending direct negotiations on the fifth point until evacuation was completed.

Mr. Harada, with whom I was talking, explained that it was perfectly certain that negotiations on the fifth point would take a very considerable time, and that therefore they would be continued after the evacuation was finished.

On further discussion, we came to the conclusion that it might be possible to find a formula which might be satisfactory to both parties and to the Council, to the effect that negotiations should be begun with regard to the five points. As the first four of these related to security, negotiations with regard to them might run concurrently with the evacuation negotiations, but the negotiations on the fifth point would not begin till the day on which the evacuation was completed.

Mr. Sugimura had added in his message that, while it might be quite possible for the Japanese Government to resort to The Hague Court on the question of the interpretation or validity of a particular treaty, he did not think that it would be prepared to take the whole Manchurian question to the Court, since very grave political considerations were involved which were of vital importance to Japan.

I observed to Mr. Harada that the Council resolution contained no mention of The Hague Court. It recommended, indeed, that there should be direct negotiations between the two parties on all outstanding points, and suggested that Committees of Conciliation should be set up for this purpose.

E. D.

⁴ A Japanese member of the staff of Mr. Sugimura, Under-Secretary General in charge of the political section of the League of Nations Secretariat.

No. 703

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received November 3, 12.35 p.m.)

No. 212 Telegraphic [F 6272/1391/10]

TOKYO, November 3, 1931, 12.35 p.m.

My immediately preceding telegram,¹ last paragraph.

French Ambassador was informed today by Minister for Foreign Affairs that reply will refer to Japanese statement of October 26, and point out that the Chinese by continuing the boycott had not complied with the resolution of the League of Nations. French Ambassador was unable to move him.

Nevertheless we both believe that some compromise might be found on the lines of paragraph 7 of your telegram No. 295 to Paris,² provided that time is given to discuss it thoroughly and arrange all its details before it is made public.

Repeated to Peking.

¹ Not printed. This telegram reported the publication in the Japanese press on November 3 of the text of the note from the Chinese Minister in Tokyo dated October 27 and of the Japanese Government's reply thereto dated October 31. (For these notes see *League of Nations Official Journal*, December 1931, p. 2566.) Sir F. Lindley added 'Papers also refer to M. Briand's note (see No. 691, note 2) as showing wide divergence of views and state that reply will shortly be sent'.

² No. 689.

No. 704

Sir M. Lampson (Peking) to the Marquess of Reading
(Received November 3, 9.30 a.m.)

No. 605 Telegraphic [F 6270/1391/10]

PEKING, November 3, 1931, 12.45 p.m.

I saw the Young Marshal at his invitation tonight.¹ He said he had received reports of arrival of Japanese troops at Tungliao and of other Japanese forces advancing on Tsitsihar and wished to know whether I had any news on the subject and what my views were. He feared that Japanese were seeking to create an incident before November 16. Pretext for advance on Tsitsihar was to afford military protection for repair of bridge² destroyed by Chinese troops to stop advance of bandit forces. If Japanese crossed Nonni River he would have to decide whether Chinese troops would resist their advance on Tsitsihar or not intimating that there were limits to policy of

¹ This telegram was drafted on November 2.

² In the fuller report of this conversation in Peking despatch No. 1620 of November 4 it was stated that the bridge was over the Nonni river. For the Nonni bridge incident see *League of Nations: Appeal by the Chinese Government: Report of the Commission of Enquiry*, pp. 72-75.

non-resistance. I tactfully counselled continuance of policy hitherto followed which had given China so good a case at Geneva. From this he passed to discussion of meaning of recent Japanese move in advertising alleged aggressive intentions on the part of Russia. He suggested that Japan's object was to stir up trouble with Soviet Government in order to distract attention from and enlist sympathy for her own actions. I said I had no news on the subject. Dealing with general situation I urged necessity for finding a bridge for direct Sino-Japanese negotiations with adequate guarantees for both sides (having observers on Shantung model in mind). He did not demur and intimated that he had discussed this question of negotiations with the Central Government during his recent visit to Nanking. (He flew down on October 29 and returned October 31.)³

Repeated to Tokyo and Mission.

³ Further topics of conversation were summarized as follows in the concluding paragraph of Peking despatch No. 1620: 'Amongst other points mentioned in the course of conversation, the Young Marshal said that he had formerly known and liked General Honjo who had been Japanese Military Adviser for three years to his father, Marshal Chang Tso-lin. Discussing the Japanese story of the blowing up of the S.M.R. line north of Mukden, the Young Marshal said, in reply to H.M. Minister's enquiry, that he had no direct confirmation of the report that the red (infantry) tabs on the Chinese corpses found or placed in the vicinity had been subsequently changed for white (engineer) tabs. He had merely heard on good authority that this had been done. He also mentioned that from the position and accoutrements of the corpses of the Chinese soldiers which included side arms, there was reason to suppose that the Japanese had got hold of these unfortunate Chinese soldiers beforehand and had taken them to the spot and had shot them there as evidence since it would have been impossible for any Chinese soldier to have been out of barracks with side arms at that time of night.'

No. 705

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received November 4, 9.30 a.m.)

No. 213 Telegraphic [F 6315/1391/10]

TOKYO, November 4, 1931, 3.40 p.m.

Vice-Minister for Foreign Affairs informed me today that some ten days ago Japanese Ambassador at Moscow had . . .¹ attention of Soviet Government in most friendly way to rumours that arms had been supplied to China. Karakhan had expressed astonishment and denied truth of rumours. Vice-Minister for Foreign Affairs added that Japanese Consular Officers did not believe they were true.

Japanese military authorities do believe in their truth but there seems no anxiety here as to Soviet attitude.

Repeated to Peking.

¹ The text is here uncertain.

No. 706

Lord Tyrrell (Paris) to the Marquess of Reading (Received November 5)

No. 11 Saving: Telegraphic [F 6349/1391/10]

PARIS, November 4, 1931

Your telegram No. 299.¹

In conversation today M. Briand told me that he had reason to believe that the Japanese Government were seeking a way out of the present deadlock and that the Chinese attitude would be more favourable towards an understanding with the Japanese.

¹ Not printed. This telegram of November 4 enquired whether Lord Tyrrell had found an opportunity of discussing No. 689 with M. Briand.

No. 707

The Marquess of Reading to Sir F. Lindley (Tokyo)

No. 572 [F 6397/1391/10]

FOREIGN OFFICE, November 4, 1931

Sir,

I asked the Japanese Ambassador to call on me this afternoon. I told the Ambassador that I was very anxious to see him as I was much disturbed by the constant references to anti-British feeling in Japan and the suggestion that we were taking a prominent part against Japan in the dispute between China and that country now before the League. It seemed to me that some party was interested in sowing dissension between the two countries. I wished to state emphatically that His Majesty's Government had taken no step which could detract from the long-standing friendship which they earnestly desired might be continued in the mutual interests both of Japan and Great Britain and of the world. Japan's role in the League was a very important one, and she was interested in upholding the principles embodied in the League Covenant. I said I hoped that the Japanese Government would bear in mind that in dealing with League matters there was no ground for assuming, because we had supported the resolution of the Council, we had made any change in our views as regards Japan. We might any day be in the same position as regards [*sic*] Japan if any question arose affecting our particular interests and our obligations under the League Covenant. In dealing with the question before the League I had had in mind throughout my desire to preserve intact the prestige of Japan and to consider the natural susceptibilities of a great Power like Japan in the question before the League. I begged that his Government might pay special attention to the proposal to appoint representatives to discuss the details of the evacuation; we had throughout hoped that if this were done it might easily lead to further discussions on large questions between Japan and China, which was, we understood, in

accordance with the desire of the Japanese Government. I urged Mr. Matsudaira to impress on his Government not to allow us to come to the next meeting of the Council without some steps having been taken by the Japanese Government, even if evacuation were incomplete on the date of the meeting of the Council.

Mr. Matsudaira thanked me for my communication, which he said he would convey to his Government. He said that he understood that his Government were now willing to proceed on the lines of the first three of the proposals which had been communicated to Sir Eric Drummond at Geneva.

I am, &c.,

READING

No. 708

Letter from Sir E. Drummond to Mr. Cadogan

[F 6387/1391/10]

LEAGUE OF NATIONS, GENEVA, *November 4, 1931*

Many thanks for your two letters of the 30th October.¹

I quite agree with the idea contained in telegram 295 to Lord Tyrrell,² that it is necessary to build some sort of a bridge for Japan.

You will, of course, by now have the text of Briand's note to Yoshizawa,³ which, to my mind, might possibly form the foundation of such a bridge. Sugimura's plan might add to the structure. He will have explained it to you by now, but, as I gather, it is:—

(1) that the Chinese should confirm the contents of Briand's note;

(2) that then there should be two independent sets of negotiations between Chinese and Japanese representatives, and that they should begin concurrently. The first would be solely concerned with questions on evacuation, and the taking over of the evacuated territories. The second should be on the five points, but these should in the first place be limited to a protocol to be concluded between the Chinese and Japanese representatives approving the agreement reached on the five points, as set out in the Briand note. Further negotiations could then take place as regards the first four points, even before evacuation was finished; but the fifth point would only be treated on the day that evacuation was completed.

This would seem, to my mind, really to give the Japanese what they want, as they would be able to show that they had received satisfaction as regards direct negotiations. But of course this does require a certain amount of good will, though not much, on the part of the Japanese Government, and my news from Sugimura is not very optimistic.

In paragraph 9 of the telegram, you refer to certain proposals which Briand

¹ It has not been possible to trace these letters in the Foreign Office archives.

² No. 689.

³ See No. 691, note 2.

made to the Japanese Delegation when at Geneva. Those proposals were to the effect that if the Japanese Government could alter its fifth point, so as to bring it really within security provisions, he would then be prepared to recommend direct negotiations on evacuation and security. You will see from the memorandum that I sent you that this resulted in a draft resolution, which was submitted to the Committee of Five (annex B of that paper).⁴

I have no more news about the place of the next Council Meeting, though Sze has again urged strongly that it should be at Geneva.

Yours ever,

ERIC DRUMMOND

⁴ Not printed. The draft resolution was that summarized in No. 672.

No. 709

The Marquess of Reading to Sir R. Lindsay (Washington)

No. 773 Telegraphic [F 6304/1391/10]

FOREIGN OFFICE, November 5, 1931, 4.5 p.m.

Manchuria.

1. Sir M. Lampson reports¹ that United States Minister in China has heard from State Department that United States Government do not wish to take initiative in appointing observers but think that League Powers should do so first. United States Minister infers from this that State Department will follow the lead of the League Powers.

2. The Chinese Government have stated their intention of proceeding immediately with the execution of the terms of the Council Resolution of October 24 and have accordingly addressed formal requests to Ministers of the League Powers to designate representatives in accordance with paragraph 4 (b) of the Resolution. As however the Resolution was not passed unanimously it is not binding on the parties to the dispute. It does not in any case seem possible to give effect to paragraph 4 (b) unless and until the Japanese Government express their willingness to evacuate as contemplated in paragraph 4 (a). In these circumstances Sir M. Lampson has informed the Chinese Foreign Office that he will hold representatives in readiness available as and when required provided that the other Heads of Missions do the same. He proposes however to withhold the names of the British representatives until the time comes when in accordance with the terms of the Resolution there is work for them to do.

3. You should take an opportunity of explaining to the State Department how the matter stands.

Repeated to Peking, Tokyo, Geneva and Paris by bag.

¹ In Peking telegram No. 603 of November 3 (not printed).

No. 710

Sir F. Lindley (Tokyo) to the Marquess of Reading
(Received November 5, 11.40 a.m.)

No. 214 Telegraphic [F 6354/1391/10]

TOKYO, November 5, 1931, 6.0 p.m.

My immediately preceding telegram.¹

Minister for Foreign Affairs assured the French Ambassador today that Japanese troops would be withdrawn as soon as the bridge over the Nonni was repaired.

I have no doubt that this is the real intention of Japanese Government. Repeated to Peking.

¹ No. 705.

No. 711

Sir M. Lampson (Peking) to the Marquess of Reading
(Received November 7, 6.0 p.m.)

No. 616 Telegraphic: by wireless [F 6414/1391/10]

PEKING, November 7, 1931

Acting Minister for Foreign Affairs informed Mr. Ingram Chinese Government have received clear indication from a reliable source, name not given, that elimination of the Young Marshal would greatly ease the Manchurian situation and might facilitate direct negotiations.

Acting Minister for Foreign Affairs had previously told Mr. Ingram that one of the two points on which the Canton party disagreed with the Nanking foreign policy was that the former were demanding punishment of 'those responsible' for plight of Manchuria, meaning the Young Marshal.'

Repeated to Tokyo.

¹ Sir F. Lindley referred to this telegram in his telegram No. 218 of the same date and stated: 'Elimination of Young Marshal has been principal object of army throughout and if effected would certainly ease situation'.

No. 712

Letter from Sir E. Drummond to Mr. Cadogan

[F 6439/1391/10]

LEAGUE OF NATIONS, GENEVA, November 8, 1931

Herewith a further conversation with Gilbert, which I had this morning. I do not know what is the view at home, but the Japanese answer¹ seems

¹ i.e. the Japanese reply of November 7 to M. Briand's note of October 29 (see No. 691, note 2), which is printed in *League of Nations Official Journal*, December 1931, pp. 2516-17.

to shew that at present they are absolutely unyielding, and is entirely unsatisfactory. I believe Briand shares this opinion. Sugimura is heartbroken, and does not see what more he can possibly do. His suggestions,² which had been adopted by Yoshizawa, seem to have been completely turned down. In short, it is a vile situation.

The Japanese Government and their Delegation at Paris have been urging me for some time to get Frank Walters to Tokyo at the earliest possible date, and I conveyed this message to him some three or four days ago. When the Japanese Note came in, I had prepared a telegram telling him that there was no use in his going there, but just as I was about to send it one came in from him saying that he was leaving for Tokyo to-morrow, by agreement with the Japanese Government. I therefore thought it better to let him go, and have asked him to report if there are any possible signs of a satisfactory solution, such as that Sugimura suggested, but I am not at all optimistic.

Yours ever,

ERIC DRUMMOND

ENCLOSURE IN No. 712

Record of Interview

GENEVA, November 8, 1931

Mr. Gilbert came to see me this morning, and we discussed together the Japanese reply to M. Briand's Note. I told him that I regarded it as entirely unsatisfactory, and it was clearly a definite refusal to accept the thesis put forward in the Note which the United States Government had addressed to Japan, and of which he had read me the text.³ In my personal view, Japan had violated not only the spirit, but even the letter of the engagements it had taken in the resolution of September 30th, and had also violated Article 10 of the Covenant, Article 2 of the Pact of Paris, and most evidently Article 1 of the Nine-Power Treaty. M[r]. Gilbert said that he entirely agreed.

I said that therefore, unless the situation changed, the Council would probably be faced on November 16th with a very serious situation. To my mind

² See No. 708.

³ This note of November 5 is printed in *Foreign Relations of the United States: Japan 1931-1941*, vol. i, pp. 34-35. On November 6 Mr. Gilbert had, in accordance with instructions from Mr. Stimson (see op. cit., 1931, vol. iii, p. 381), made a communication to Sir E. Drummond, in which he stated in particular 'the Note throughout was a strong vindication of the League point of view'. In his note of this conversation Sir E. Drummond recorded: 'I thanked Mr. Gilbert most warmly for this communication, and said that I was very happy at the terms of the Note. I told him that I thought perhaps, in view of its confidential nature, that I would prefer to limit the information to the Members of the Committee of Five. Mr. Gilbert replied that he felt sure Mr. Stimson would thoroughly concur in such limitation. In order that there should be no misunderstanding, I then explained to Mr. Gilbert the plan put forward at Tokyo by Mr. Sugimura on his own authority, but I was careful to say that while I thought that such a plan might afford a way out of the present impasse, and would certainly be very thoroughly considered by the Members of the Council, no one was definitely committed to its details, and even to its principles.'

it was essential that there should be complete co-ordination and agreement between the United States and the Council on any questions of policy which might arise. Did he think it would be possible for him to obtain the views of his Government on various eventualities—and I called his attention in this connection to the report approved by the Council with regard to Article 11⁴—so that full agreement might be assured?

Mr. Gilbert replied that, like other Governments, that of Washington was always unwilling to deal with hypothetical cases, but he would do his best to secure some general knowledge of the policy Washington would be likely to adopt with regard to any specific proposals.

I thanked him for this, and said that, of course, it would be most useful because I felt sure that the Members of the Council would wish to act in the closest unity with Washington in such a serious affair.

I added that I had learnt that public opinion in Tokyo seemed somewhat ignorant of the feeling that had been aroused in other countries by the Japanese present action, and having this in view I wondered whether the United States Government would not consider the publication of the text, or at any rate of the substance, of the U.S. Note to Tokyo.

Mr. Gilbert promised to put this matter before his Government.

⁴ See No. 664, note 4.

No. 713

Sir M. Lampson (Peking) to Sir J. Simon¹ (Received November 9, 9.0 a.m.)

No. 624 Telegraphic [F 6419/1391/10]

PEKING, November 9, 1931, 10.15 a.m.

Tokyo telegram No. 211.²

Chinese Minister in Tokyo was instructed November 3 to reply to Japanese Government's note of October 31.²

Chinese note³ repeats invitation to the Japanese Government to appoint representatives to meet Chinese Commissioners⁴ with a view to arranging for complete evacuation by November 16; reiterates readiness of Chinese Government to negotiate on outstanding question *after* evacuation and refers to views expressed in Chinese communication of October 31 to Secretary of the League.⁵

Repeated to Tokyo.

¹ For Sir J. Simon's appointment as Secretary of State for Foreign Affairs see No. 479, note 2.

² See No. 703, note 1.

³ For the text of this note see *Foreign Relations of the United States 1931*, vol. iii, p. 373.

⁴ The appointment of this commission had been notified to Sir M. Lampson in a note of November 2 from the Waichiaopu. For a similar note to Mr. Johnson, see *ibid.*, pp. 364-5. See also *League of Nations Official Journal*, December 1931, pp. 2538-9.

⁵ This communication is printed *ibid.*, pp. 2517-19.

No. 714

Sir F. Lindley (Tokyo) to Sir J. Simon (Received November 9, 12.20 p.m.)

No. 219 Telegraphic [F 6433/1391/10]

TOKYO, November 9, 1931, 6.35 p.m.

My telegram No. 217.¹

American note associates United States Government with views expressed by the Council of the League. Its contents have not been divulged in the press.

The whole country still believes that Japan is altogether in the right and we do not think that Japanese Government would heed any threat even if the United States joined the Council in making one. Without the United States threats are certainly valueless and I learn today on unimpeachable authority that American Secretary of State recently declared that in no circumstances would United States Government join in any act of pressure or applied sanctions.

Repeated to Peking.²

¹ Not printed. This telegram of November 7 reported the presentation to the Japanese Government of the United States Ambassador's note of November 5.

² This telegram was repeated to Washington by the Foreign Office on November 10.

No. 715

Record by Sir V. Wellesley of a conversation with M. de Fleuriau

[F 6629/1391/10]

FOREIGN OFFICE, November 9, 1931

The French Ambassador called this morning and read to me a despatch giving an account of the latest conversation between M. Claudel, the French Ambassador in Washington, and Mr. Stimson on the subject of the Manchurian embroglio. He also left with me the annexed summary of that conversation which shows very clearly the action which the United States Government have taken at Tokyo.

After thanking His Excellency for this communication I proceeded to question him as to whether he had had an opportunity, while in Paris, of discussing with M. Briand our latest proposals¹ of which I had given him an *Aide-Mémoire* just before he left London some days ago.

I was surprised to hear that the Quai d'Orsay had only just begun to study the matter after M. de Fleuriau had called attention to it. He himself had not had an opportunity of discussing the matter fully with M. Briand but he had gathered that in view of M. Briand's latest summons to the Chinese and Japanese Governments² as well as the action of the American Govern-

¹ See No. 689.

² This appeal of November 6 is printed in *League of Nations Official Journal*, December 1931, p. 2521.

ment in Tokyo it might be difficult to act on our suggestion before those Governments had replied. I observed that the Japanese reply³ had now been received and was hardly satisfactory so that the time had now come when our proposals should be given the most serious consideration and I hoped that he would once more press his Government to take up the matter in view of the fact that its urgency is almost hourly increasing. V. W.

ANNEX TO No. 715

Ambassade de France à Londres

M. Stimson a dit à l'Ambassadeur de France à Washington qu'il avait envoyé à l'Ambassadeur des États Unis à Tokyo des instructions en vue de bien montrer au Gouvernement japonais que le Gouvernement était en plein accord avec la Société des Nations sur le point qu'il considère actuellement comme le plus essentiel, à savoir que le Gouvernement japonais ne devrait pas imposer pour condition du retrait de ses troupes dans la zone du Sud Mandchourien l'ouverture avec la Chine de négociations portant sur les traités sino-japonais touchant la Mandchourie. Le maintien de cette prétention japonaise donnerait à penser que le Japon cherche à obtenir par des procédés coercitifs le règlement de différends très anciens; si cette impression était confirmée par la suite, on en viendrait à considérer l'éventualité d'un manque au Pacte de Paris ou peut-être au Traité dit des neuf Puissances.

M. Stimson a ensuite envisagé l'éventualité qu'il considère comme probable de la non-évacuation des troupes japonaises des régions hors de la zone du Sud Mandchourien. Il lui semble que, pour sortir d'une impasse, où se trouverait la Société des Nations, on pourrait utiliser le précédent de Washington en 1922 pour le litige sino-japonais de Shantoung, les négociations concernant le litige avaient été engagées directement entre les délégués chinois et japonais en présence d'observateurs neutres. M. Stimson n'a pas communiqué cette suggestion aux Japonais et aux Chinois afin de ne pas gêner l'action de la Société des Nations et de M. Briand à qui il la soumet.

³ This reply of November 8 is printed *ibid.*, p. 2522.

No. 716

Record by Sir V. Wellesley of a conversation with the Japanese Ambassador

[F 6650/1391/10]

FOREIGN OFFICE, *November 9, 1931*

The Japanese Ambassador called this afternoon and said that he had received instructions to explain to us the circumstances of the Nonni Bridge incident. They were as follows:— The bridge was destroyed by the Chinese.

The line which crosses it is a Chinese line, built and financed by the South Manchurian Railway and therefore represents a very important Chinese interest. The line feeds the South Manchurian Railway and is particularly important at this season of the year owing to the necessity of moving the crops. This, together with the fact that before long the river will probably be frozen, made repairs a matter of some urgency. The Chinese Railway authorities accordingly applied to the South Manchurian Railway to undertake repairs. This was agreed to and a party of engineers under the protection of a Japanese Military guard consisting of one or two battalions i.e. two or three hundred men were dispatched to repair the bridge. When they arrived at the spot they found two Chinese Generals, General Ma² and General Yuan [*sic*]³, engaged in a battle against another Chinese General Chang,⁴ across the River Nonni close to the destroyed bridge. They therefore requested the Chinese commanding officers on both sides to be good enough to remove the scene of hostilities a little further down the river while the bridge was being repaired, the Ambassador mentioned six miles—and that both sides should undertake to refrain from either molesting the Japanese engineers or in any way damaging the bridge while under or after repair. It did not appear, from what the Ambassador told me, whether this request was complied with, but whether or not, a small party of Japanese soldiers who had been stationed to guard the Western approach to the bridge were fired upon by the Chinese and several were killed. Reinforcements had therefore to be sent for, amounting to some two or three thousand men. It was not till these appeared on the scene that the Chinese were forced to retire. The incident was now at an end. The Japanese very much regretted that it should ever have occurred. It was very unexpected and most unfortunate. Strict orders had been issued that none of the troops were to proceed beyond the river and they will be withdrawn as soon as the bridge has been repaired which may take a fortnight or so. Moreover the Japanese Government were anxious to avoid any conflict with Russia.

I thanked His Excellency for this communication and then proceeded to ask him about the evacuation of the rest of the troops from Manchuria. He told me that most of them had already been withdrawn into the Railway zone and that not more than 1,000 now remained outside. If this is true, we ought to be considerably nearer a solution of the problem.

The above does not altogether tally with reports from our Military Attaché:
V. W.

¹ A note on the file copy suggests that this word should be 'Japanese'.

² General Ma Chan-shan, Acting Chairman of the Heilungkiang Provincial Government.

³ The reference should probably be to General Wan Fu-lin, Chairman of the Heilungkiang Provincial Government.

⁴ General Chang Hai-peng, commander of the garrison at Taonan.

⁵ A report of this conversation was sent to Tokyo in Foreign Office despatch No. 590 of November 20.

No. 717

Sir J. Simon to Sir R. Lindsay (Washington)

No. 781 Telegraphic [F 6433/1391/10]

FOREIGN OFFICE, *November 10, 1931, 4.0 p.m.*

Tokyo telegram No. 219.¹

We have no thought of sanctions ourselves, but I shall be glad if you can find means without raising any alarm of ascertaining feeling of United States Government as regards their use by United States or by others.

Repeated to Tokyo.

¹ No. 714.

No. 718

Sir R. Lindsay (Washington) to Sir J. Simon

(Received November 11, 9.30 a.m.)

No. 681 Telegraphic [F 6461/1391/10]

WASHINGTON, *November 10, 1931, 5.0 p.m.*

My telegram No. 76 (*sic*? 676).¹

Secretary of State sent for me this morning to tell me that United States Ambassador in London will be sent to Paris next week to be at hand during League Council meeting on Manchuria. He is being sent only partly because United States Ambassador at Paris is absent but also because United States Government was anxious that its views might be expressed by an authoritative spokesman. General Dawes would be instructed 'to hold himself in readiness for any discussions with representatives of other Powers' and he is being told that 'it is not anticipated that any necessity will arise for him to attend any meetings of Council'.

Secretary of State does not consider that he will be at Paris in capacity of an observer even, but solely for purely practical purpose of expressing views of United States Government when necessary, of ensuring co-ordination of its views with those of the Council and thus securing utmost co-operation towards a common object. In October at Geneva where the question relating to Pact of Paris arose presence of an American at the Council was desirable but in this case there was no such necessity. He believes however that this is the procedure best calculated within limits of what is politically possible to produce maximum practical benefit.

French and Japanese Ambassadors are being told today and press will be informed tomorrow.

¹ The reference is presumably to No. 700.

No. 719

Sir R. Lindsay (Washington) to Sir J. Simon
(Received November 11, 9.0 a.m.)

No. 682 Telegraphic [F 6460/1391/10]

WASHINGTON, November 10, 1931, 7.33 p.m.

My immediately preceding telegram.¹

Secretary of State believes chances for bringing about a settlement between China and Japan are now fairly favourable and that both are anxious to enter on negotiations, though they may not admit it. American note to the Japanese Government insisted particularly on point that latter put themselves entirely in the wrong by standing out for negotiations before evacuation. He told me that the Japanese reply² was very concil[i]atory indeed and he was inclined to draw satisfactory inferences. As to Chinese Government, though it might be able to continue its passive resistance and to keep up boycott he believes nevertheless that it had felt Japanese pressure and was anxious to end it.

His ideas as to how to proceed at Paris were still tentative but he called to mind method adopted in 1922 over Shantung controversy, when Chinese and Japanese Governments had been invited to negotiate in the presence of two neutrals (Lord Balfour and Mr. Hughes). Japanese Government had at first refused but had been persuaded to agree in the end. On that occasion it had also been agreed to drop the question of legal right and to concentrate on seeking practical methods of ending the controversy. This had been all the easier as United States Government had never accepted validity of Sino-Japanese treaty of 1915. He was inclined to think procedure on these lines might be fruitful at Paris.

I have since received your telegram No. 781.³ Subject of sanctions has never arisen in my conversations at State Department but I am sure they would be entirely abhorrent to United States Government and that if others had recourse to them United States Government would formally dissociate itself. I will however seek early opportunity for discreet sounding.

¹ No. 718.

² The Japanese Ambassador in Washington's memorandum of November 9 in reply to the United States' memorandum of November 5 is printed in *Foreign Relations of the United States: Japan 1931-1941*, vol. i, pp. 39-41.

³ No. 717.

No. 720

Record by Sir R. Vansittart of a conversation with the German Ambassador
[F 6520/1391/10]

FOREIGN OFFICE, November 10, 1931

The German Ambassador came to see me this afternoon, by instructions from his Government, to enquire what were our views and intention in regard to the Sino-Japanese dispute.

I replied that I hoped to have a discussion of the matter with the Secretary of State this afternoon and was therefore not yet in a position to reply.

He begged that he might be given some indication later in the week.

He added that his Government had heard that the Chinese Government intended to ask for the application of Articles 15 and 16 of the Covenant, and that his own Government strongly deprecated this of course.¹

R. V.

¹ Sir J. Simon minuted on this paper as follows on November 14: 'We should, I suppose, give the German Ambassador such indications as we can and perhaps you would do this. As for A [i.e. the last paragraph of Sir R. Vansittart's minute], I am strongly opposed to any treatment of the question which will bring up the question of sanctions. We ought to cooperate in any course that will preserve the moral authority of the League and a futile reference to Art. 16 would surely have the opposite effect. J. S.'

No. 721

Sir F. Lindley (Tokyo) to Sir J. Simon (Received November 11, 3.30 p.m.)

No. 221 Telegraphic [F 6495/1391/10]

TOKYO, November 11, 1931, 7.38 p.m.

My telegram No. 219.¹

It is clear from newspapers and other sources that public opinion is beginning to favour secession from the League unless Japanese views are met to some extent at least. Question has in fact assumed aspect of Japan versus the League instead of Japan versus China.

It has occurred to us that it might be possible to bring pressure to bear upon China to make formal declaration that 'existing Sino-Japanese treaties regarding Manchuria will remain in force'. This is exact wording used in Article 7 of treaty of 1915 and it would therefore be difficult for Japanese to object to it. It does not strictly speaking cover their claim to (? veto)² lines competing with South Manchurian Railway since Protocol on this question attached to Treaty of 1905 was not apparently signed and may therefore be argued not to exist. This should make formula more acceptable to the Chinese. If made without reserves regarding arbitration etc., it also seems to meet objections raised in Japanese reply to M. Briand's note of October 29.³

As regards evacuation the precedent for [of] 1929 might be useful. See Tokyo despatch No. 157, 1929.⁴

In Japanese reply to note invoking Kellogg pact attention was called to boycott as 'not being in harmony with the letter and spirit of stipulations of Article 2 of Pact of Paris'. Failure of the League to censure this form of hostility is one of the causes of resentment against the League and some con-

¹ No. 714.

² The text is here uncertain.

³ See No. 712, note 1.

⁴ Not printed. Sir J. Tilley transmitted under cover of this despatch documents relating to the settlement of the Tsinan incident: see No. 1, note 29.

demnation of it would help here—cf. action taken by the four Consuls at Foochow. See Foochow despatch No. 60 to Peking of December 20, 1928.⁵

Since we are profiting principally from boycott condemnation if thought advisable would come well from British delegate.

Repeated to Nanking.

⁵ Not printed. This despatch transmitted copies of the protests made by the Consular Body at Foochow against the recrudescence of the anti-Japanese boycott at Foochow, Amoy, and other ports.

No. 722

Record by Sir V. Wellesley of a conversation with the French Ambassador
[F 6655/1391/10]

FOREIGN OFFICE, November 11, 1931

The French Ambassador called this afternoon and read to me a despatch from M. Briand in which the latter, owing to the danger of further incidents in Manchuria, seemed disposed to send observers to report. This would be in harmony with the resolution of September 30 to which the Japanese Government had agreed. M. Briand would be glad to know what view we should take of that suggestion.

I told M. de Fleuriau that I would of course submit it to the Secretary of State but that, speaking quite personally without prejudice to the Secretary of State's decision, I thought it would be a mistake. There were signs that the Japanese Government was in a more reasonable frame of mind and it would be a pity to do anything that might irritate them. The despatch of observers would almost certainly play into the hands of the military party and rouse public opinion thereby weakening the position of the Japanese Government. M. de Fleuriau said that he personally entirely agreed with that view. I then went on to repeat to him what the Japanese Ambassador had told me about the Nonni Bridge incident¹ and I said that I thought that on the whole it would be wiser to accept the assurances of the Japanese Government that the troops would be withdrawn as soon as the bridge had been repaired. I also mentioned the fact that only 1,000 men remained outside the railway zone excepting those at Nonni Bridge.

V. W.

¹ See No. 716.

No. 723

Sir J. Simon to Sir R. Lindsay (Washington)
No. 1566 [F 6597/1391/10]

FOREIGN OFFICE, November 11, 1931

Sir,

General Dawes came to see me at his request to-day and showed me the telegram he had received from Mr. Stimson to the following effect: 'I have asked General Dawes, the Ambassador in London, to go to Paris during the

coming meeting of the statesmen who compose the Council of the League of Nations, as this meeting will consider the present situation in Manchuria and American interests may be involved. It is not anticipated that General Dawes will find it necessary to take part in the meetings of the Council, but he will be in a position to confer with the representatives of the other Nations in case such conference should seem desirable.¹ General Dawes explained that Mr. Gilbert would not himself be at Paris. It was pointed out that Mr. Gilbert had been present at the Council Table as an observer and consequently the question arose whether General Dawes was himself proposing to sit at the Council Table. The Ambassador replied that he had a free hand in the matter. He should keep himself in the background if that seemed more useful and would endeavour to play whatever part would be most helpful.

The Ambassador spoke of his close friendship with Mr. Matsudaira and said that he had had very frank talks with him recently on the Manchurian question. Indeed, the way in which the Ambassador spoke rather made me wonder whether he had come to some extent to repeat to me the views of the Japanese Ambassador. He told me that he had discussed with Mr. Matsudaira the question whether the latter should not also go over to Paris and that Mr. Matsudaira would himself be willing to do so. He said that Mr. Matsudaira expected a telegram to tell him to go to Paris. I said that it would seem to me very difficult for us, as I supposed for the American Ambassador, to urge any such course, but that I was much interested to hear the suggestion and would be very glad if it materialised. General Dawes then said that he had arranged, on the instructions of his Government, to go over to Paris to-morrow, Thursday, and try to see M. Briand in advance. He would in any case cross to Paris on Friday, but he suggested that he would like to come and see me again to-morrow and that the Japanese Ambassador might come at the same time. I said that it so happened that the Japanese Ambassador had asked for an appointment at 12.15 and General Dawes said that he should come with him.

On the merits of the Manchurian difficulty, General Dawes expressed a strong and confident opinion that the Japanese Government would instruct their representative, whoever he was, to make a gesture of advance which would protect the authority of the League, provided that the way was found to avoid further insistence on the time limit. The Ambassador said (what I already knew) that his Government regarded the time limit as a mistake. He said that he had urged the Japanese Ambassador that Japanese troops should be withdrawn by degrees. I said we had had a telegram indicating that this was taking place in two areas.² Evidently General Dawes has had a good deal of detail from the Japanese as to numbers, movements, &c. As to a mode of treatment of the problem, General Dawes said that he should have thought there ought to be what he called an armistice. I enquired whether I rightly understood him to mean that there ought to be a period fixed during which both the disputing parties undertook to maintain the *status quo*—

¹ See *Foreign Relations of the United States 1931*, vol. iii, p. 422.

² It has not been possible to trace this telegram in Foreign Office archives.

neither advancing nor retreating and abstaining from hostilities—in order that in the breathing space they might get together. He said this was exactly what he meant, and that something of the sort would greatly help the Japanese on the fifth point of their fundamental principles. He told me that he had said to Mr. Matsudaira that the Japanese in Manchuria were really like the Americans at one time in Nicaragua, i.e., that they were bound to make sure that there was order restored before they could withdraw.³

In the course of the conversation I took occasion to observe to General Dawes that I believed on a previous occasion when China and Japan had been at loggerheads and no way out seemed possible, that a suggestion that each of them should, as it were, 'consult a solicitor' was made, and that Mr. Hughes and Lord Balfour between them found out a way of accommodation.

I am, &c.,

JOHN SIMON

³ A contingent of United States marines was stationed in Nicaragua 1912–25 and 1927–32.

No. 724

Sir F. Lindley (Tokyo) to Sir J. Simon (Received December 8)

No. 533 [F 7341/1391/10]

TOKYO, November 11, 1931

Sir,

In paragraph 21 of my despatch No. 512¹ of the 30th ultimo, I drew attention to the anti-British campaign which was then being carried on in the Press. So far from diminishing, this campaign grew more virulent as time passed and both His Majesty's Consul at Tokyo and other prominent British residents expressed to me their uneasiness and their fear that, if nothing were done to check it, their position would become one of great difficulty. It was, moreover, hinted at the Gaimusho that an authoritative denial that His Majesty's Government was seeking special advantages in China as their price of support against Japan, would tend to mitigate the hostile attitude of the Press.

2. It was in these circumstances that I despatched my telegram No. 210,² of November 2nd, suggesting that I might be authorised to make such a denial, and was most grateful to receive your telegram No. 142³ of November 3rd giving the necessary authorisation. I accordingly called on Mr. Nagai, Vice-Minister for Foreign Affairs, on the 4th November and handed him a short memorandum, of which a copy is enclosed herewith.⁴ At the same time I took the opportunity of explaining once again that the attitude of the British Delegates at Geneva was in no way due to any anti-Japanese feeling. The policy of His Majesty's Government was a League policy, and I knew for a fact that they were animated by the friendliest feelings towards Japan.

¹ No. 693.

² No. 698.

³ Not printed. See No. 698, note 1.

⁴ Not printed.

My statement was duly published in the Press and, though there were one or two disagreeable observations made in a few articles which appeared, the result on the whole was to produce a marked diminution of anti-British fulminations. In this connection I have the honour to enclose a leader⁵ from the 'Japan Times' of November 5th which was obviously written under the inspiration of the Gaimusho.

3. As soon as I arrived here in July, I made enquiries as to the relations between this Embassy and the Japanese Press as a whole; and I found that, owing to changes of personnel here, and other reasons into which it is unnecessary to go, those relations were by no means as close as I should have wished. I had, therefore, already the intention of taking some steps to get into touch with the Press before the present Manchurian crisis broke out; and it seemed to me that this crisis made it all the more desirable to do something effective. I consulted Mr. Gadsby, the Legal Adviser to this Embassy and a man who is in closer touch with Japanese of many kinds than any other British subject here, and he suggested that I should speak to Count Soyeshima, a publicist and lecturer of considerable influence, who has always been very friendly towards Great Britain. By his advice I had several conversations with Dr. Zumoto, an influential man of the same type as Count Soyeshima, and, after a good deal of negotiating and sounding the ground, I agreed to invite a number of prominent journalists to the Embassy to have a friendly talk.

4. The journalists duly accepted my invitation and came to the Embassy at 3 o'clock yesterday afternoon. I had at first intended only to see a few but, for various reasons, Dr. Zumoto found that it would be advisable to invite more than I had anticipated. I enclose herewith a list⁶ of the gentlemen invited, together with the names of the papers which they represent. They did not all actually come but there were very few who were absent. The meeting was, therefore, thoroughly representative.

5. In accordance with Japanese custom I welcomed my assembled guests with a short speech in which I explained that I was not altogether satisfied with the relations which I had found between the Embassy and the Press, and that I had for some time desired to make a personal acquaintance with the leaders of Japanese public opinion. Thanks to the help of Dr. Zumoto this wish had been accomplished and I hoped that in future my guests would look upon this Embassy not as a place to be avoided but one to which they could come when they desired a friendly talk. I knew that everything I said to them would be treated with that confidence which had always been the mark of their honourable profession.

6. At first the assembled journalists were not particularly at their ease and I found some difficulty in carrying out the programme which I had sketched for myself of talking to them freely one by one or in small groups. Dr. Zumoto came to the rescue and asked me one or two questions which he thought would interest all those present. One of these was whether the change of Government in Great Britain was likely to cause a change of foreign policy. I explained that the foreign policy of His Majesty's Government had, ever

⁵ Not here printed.

⁶ Not printed.

since the war, been a League policy and that there was no responsible party in England which contemplated departing from it. I took the opportunity of explaining further, what is very imperfectly realised in this country, that a League policy necessitated a certain curtailment of the liberty of action enjoyed by every state in the past. For instance, I could tell them confidentially, that we had suffered in Persia, on a small scale, from very much the same sort of treatment as that from which the Japanese had suffered in China but that we had felt bound to follow a League policy and to put up with things which, before the war, we should never have tolerated for a moment. We had done this in the belief that a League policy, if steadily followed, would lead to real peace and also would, in time, teach the backward nations to behave with better manners than some of them had shown in the past.

7. In reply to another question, I touched on the subject of our attitude in the present dispute. I said that the idea that we were seeking special advantages in China was a grotesque one, and was not shared by any person who was acquainted with the real facts. Personally I attributed much of the anti-British propaganda which we have seen in the Press here on this subject to the fact that British trade was necessarily profiting by the anti-Japanese boycott at present in force in China. This was bound to occur, and the Japanese were the last people who had any right to complain of it; since they had profited themselves during the long anti-British boycott which had begun in 1927, and during the recent boycott in India. At the same time I could tell them that responsible opinion in Great Britain was altogether against a policy of boycotts. We realised from bitter experience that, if this policy were not stopped, we might very well be the next to suffer from it ourselves.

8. When we adjourned for refreshments the shyness, which had been rather embarrassing up to that point, disappeared; and I was able to make a closer acquaintance with a number of prominent journalists and to have some interesting and, I hope, useful conversations with them. In this I was helped not only by Mr. Gadsby and Dr. Zumoto but also by Mr. Cunningham, the Japanese Counsellor to this Embassy, Mr. Macrae, Commercial Secretary, Mr. Butler, His Majesty's Consul at Tokyo, and Mr. Morland, who all speak Japanese fluently. Mr. Snow also helped me by talking to the journalists, most of whom were acquainted with English.

9. Although I am not so naïf as to imagine that this meeting will have any particular influence on the outcome of the Manchurian dispute, I do not think it can have done any harm. Mr. Gadsby and Dr. Zumoto were both kind enough to say that it went off a great deal better than they expected, and that all the journalists with whom they had spoken had expressed their appreciation at being asked to the Embassy and their determination to cultivate friendly relations with us in the future.

A copy of this despatch has been sent to His Majesty's Minister at Peking.⁷

I have, &c.,

F. O. LINDLEY

⁷ In Foreign Office despatch No. 657 to Tokyo of December 19, Sir J. Simon expressed his appreciation of Sir F. Lindley's action.

No. 725

Sir M. Lampson (Nanking)¹ to Sir J. Simon (Received November 12, 9.0 a.m.)

No. 305 Tour: Telegraphic [F 6498/1391/10]

NANKING, November 12, 1931, 1.30 a.m.

Manchuria.

In the course of after dinner conversation with Secretary in charge of Japanese Legation, Peking, on November 10, I hazarded the view that it was high time *both* sides modified rigidity of their first attitude and began to study ways and means of saving face all round and finding some way out of the present *impasse*.

2. He said he fully agreed and had already reported to Tokyo an earlier conversation with me to much the same effect.

3. I told him that if time should come when some friendly and entirely informal intermediary could be of use my unofficial services would be at the disposal of the Japanese Minister subject to your approval and always provided something reasonably workable were put forward. It was otherwise useless to work for any compromise. Reverting to Shantung precedent I put it to him that pressure of outside observers ought to serve as some degree of safeguard to Japan as well as China by infusion of a sort of brake on any unreasonable attitude on the other side.

4. Mr. Yano presumably carries little weight in Tokyo but as above may be referred to I place it on record.

Repeated to Peking and Tokyo.

¹ Sir M. Lampson flew from Peking to Nanking on November 11.

No. 726

Sir F. Lindley (Tokyo) to Sir J. Simon (Received November 12, 2.0. p.m.)

No. 224 Telegraphic [F 6527/1391/10]

TOKYO, November 12, 1931, 7.30 p.m.

My immediately preceding telegram.¹

It may be that the Japanese proposals are less promising than United States Ambassador believes but there is no doubt that America carries more weight here than the League and Japanese Government would prefer to make concessions to the former if concessions have to be made. This makes it imperative for the Council to act with the greatest prudence when it meets. Righteous indignation only irritates the Japanese and anything approaching censure or heckling of Japanese delegate in public may well make settlement impossible.

Repeated to Nanking.

¹ Not printed. This telegram reported that Mr. Forbes had informed Sir F. Lindley that the Japanese Government's note of November 9 (see No. 719, note 2) was 'most conciliatory and contains proposals which he considers may lead to a settlement'

Sir M. Lampson (Nanking) to Sir J. Simon
(Received November 12, 9.10 p.m.)

No. 310 Tour: Telegraphic [F 6538/1391/10]

NANKING, November 12, 1931, 10.0 p.m.

I had a long talk with President November 12.

2. After enquiring of me informally about Tsitsihar¹ he turned to Canton question which he said was connected with Manchurian crisis because certain elements amongst Cantonese party were still seeking to make use of it to overthrow National Government. He had secret information that Eugene Chen when at Shanghai had been in communication with certain Foreign Ministers [*sic*] (M. Briand) urging that the League should not press Japan too far since Canton party were prepared as soon as they had control of Government to enter on direct negotiations with Japan. (I had already received somewhat similar information most confidentially from my French colleague.)

3. As regards internal situation the position following on Shanghai Conference was as reported in press i.e. separate party congresses would be held by Nanking and Canton which would elect same central executive committee which would reorganize the Government. This would go through in two weeks or so. Nanking at any rate would loyally carry out their part of the bargain.

4. In the course of general discussion of Manchurian situation I took an opportunity of speaking personally and without instructions to urge desirability of finding some way out of the present *impasse* by means of direct negotiations on main issues, subject to adequate safeguards without necessarily waiting for complete evacuation. Dr. Koo who with Minister of Finance and General Ho Yu-ching [Ying-chin] were [*sic*] also present have had thoroughly reliable information that (a) Japanese industrial interests were now urging that Japanese Government should evacuate and then stand firm on main issues and thus secure the sympathy of foreign Powers while (b) Japanese Minister for Foreign Affairs wished to work for evacuation discussions and main negotiations proceeding simultaneously but on the understanding that China would not be pressed too far on the latter, pending evacuation.

5. President showed considerable concern about Tientsin situation.² He alleged similar disturbances had been planned for Shanghai and Hankow.³ Repeated to Tokyo and Peking.

¹ i.e. the Nonni bridge incident.

² For the riots in Tientsin on November 8 and the resulting Japanese action see *League of Nations: Appeal by the Chinese Government: Report of the Commission of Enquiry*, pp. 75-76.

³ General Chiang Kai-shek reverted to the situation at Tientsin the following day in a conversation with the British, French, and United States Ministers, whose joint report thereon is printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 436-7. In the further report on the conversation of November 13 contained in his despatch No. 193 Tour.

Sir M. Lampson stated that General Chiang Kai-shek pointed out that if the Japanese used their Concessions for 'subversive political activities', this 'could not but react unfavourably on the position of other foreign Concessions by creating false impressions in the minds of the Chinese. . . . Mr. Johnson made the pertinent remark that they, the foreign Ministers, could not control either the Japanese in their Concession, or the Chinese rowdies in Chinese territory.'

No. 728

Sir J. Simon to Sir F. Lindley (Tokyo)

No. 584 [F 6533/1391/10]

FOREIGN OFFICE, *November 12, 1931*

Sir,

1. Mr. Matsudaira came to see me this morning and after he had been with me for half an hour General Dawes joined us.

2. The Japanese Ambassador handed me a résumé¹ of the facts relating to the Manchurian affair which he had prepared and which he said should not be regarded as an official document. I noted that in this document there was a reference to the Japanese-Chinese Protocol of 1905 under which the Chinese Government engaged 'not to construct . . . any main line in the neighbourhood of, and parallel to the South Manchurian railway' and that the document claimed that the building of the Tahushan-Tungliao railway was a violation of this agreement.

3. I said that I had not myself had my attention called to any written agreement on this point and the Ambassador said he would send me a copy of the Protocol.² In connection with the account given in the Ambassador's document of the recent discussions at the Council of the League, he observed that it was rather unfortunate that Mr. Yoshizawa had at first declined to

¹ Not printed.

² In accordance with this undertaking Mr. Matsudaira that day sent to Sir J. Simon a letter enclosing a copy of what Mr. Matsudaira termed 'that portion of the Minutes pertaining to the Sino-Japanese treaty of December 22nd, 1905, relating to the undertaking by the Chinese Government to refrain from building parallel lines to the South Manchuria Railway'. This enclosure read as follows:

'Minutes of the negotiations of December 22, 1905

'3. The China Government engage, for the purpose of protecting the interest of the South Manchuria Railway, not to construct, prior to the recovery by them of the said railway, any main line in the neighbourhood of and parallel to that railway, or any branch line which might be prejudicial to the interest of the above-mentioned railway.

'(In the course of the negotiations between Japan and China at Peking in 1905 with a view to arriving at an agreement on matters of common interest arising out of the Portsmouth Peace Treaty, the Japanese and Chinese delegates had some important portions of their conversations recorded in the form of minutes, on the clear understanding that they should not be published by the two countries. They were signed by Jutaro Komura and Yasuya Uchida, Japanese delegates, and Prince Chin, Chu Heng[Hung]-chi and Yuan Shih-kai, Chinese delegates, who were signatories of the treaty itself.)

'(Later published in MacMurray's "Treaties and Agreements with and concerning China," Vol. I, p. 554, and other publications.)'

state the nature of the 'fundamental principles' referred to, but that the explanation was that Mr. Yoshizawa thought this to be the proper course since he was instructed by the Japanese Government that they desired to discuss these matters directly with China as distinguished from introducing this topic for discussion at the Council.

4. I said that any unfortunate impression on this point had been removed by the Five Points being subsequently formulated.

5. The last paragraph of Mr. Matsudaira's document dealt with recent withdrawals of Japanese troops from Manchuria and I asked him for some details. He stated that more than half of the Japanese troops in the Kirin region had been withdrawn, leaving about 800 there, and he described this as an important defensive point in case of need. In the Chiuliuho [Chuliuhoh] region about half of the Japanese troops previously stationed there had been withdrawn, leaving about 150. (It is these two details of 800 and 150 which seem to make up the figure of 1,000 which he mentioned the other day as remaining outside the railway zone.) He said that before the trouble arose, there were 10,400 Japanese troops in Manchuria in connection with the railway belt etc. and that 4,000 more had been brought in after the trouble started from Korea. I gathered that these latter had been the subject of relief so that the total would remain about the same.

6. The Japanese Ambassador then spent some time in complaining of the way in which the Japanese were treated at various places in China and of the organised boycott etc. I mentioned the recent rumours from Tientsin to the effect that armed bodies of Chinese had started the riot and, as we were informed, had started from the Japanese Concession. I said that we were much perturbed by these reports, especially as there was no doubt that the rioters were armed and had been paid and, moreover, we noted that the Chinese authorities in the city had warning of what was likely to be done beforehand, whereas the Japanese authorities disclaimed all knowledge of it. The Ambassador said that the accounts we had received 'were not quite true' and went on to give a categorical denial on behalf of his Government. He suggested that the rioters had really come along the road which divided the Japanese and Chinese Concessions, but had not started from the former.

7. I said that I hoped the Japanese Government would appreciate how important it was not to let the situation become obscured and their own case rendered more difficult by events about which China might complain.

8. The American Ambassador now joined us and at once proceeded to summarise a despatch which he had just received from Mr. Stimson.³ The first passage related to a note which Mr. Stimson had received from the Japanese Ambassador in Washington describing the Japanese attitude to the Manchurian affair. He then summarised the answer which Mr. Stimson had given. I gathered that Mr. Stimson had been assured that Japan had no intention of insisting upon the final adjustment of matters in difference before withdrawing from Manchuria and General Dawes said that Mr. Stimson considered that Japan's requests for assurance that China would respect

³ See *Foreign Relations of the United States 1931*, vol. iii, pp. 423-6.

Treaty rights seemed to amount to no more than what would be observed in practice by States in their dealings with one another. General Dawes said that he thought he could let me have a copy of the Japanese communication to which Mr. Stimson referred and of Mr. Stimson's reply.

9. Mr. Stimson's document then went on to make a suggestion for a mode of treatment of the present difficulty. He recalled the method adopted in 1922 about the evacuation of Shantung when the discussion was on the basis of the *de facto* situation when, with the help of Mr. Hughes and Mr. Balfour, an agreed solution was produced. Mr. Stimson said he had suggested this analogy to Monsieur Briand. The essence of the plan was that China and Japan should appoint a committee to discuss arrangements relating to the safety of Japanese lives and property in Manchuria during evacuation and he observed that China had already appointed its negotiators. If in the course of the committee's negotiation Japan sought to enlarge the discussion by referring to Treaty rights and China objected that these questions were not germane to the committee's duty, then another committee should be set up between them to clear up the Treaty position, but it should not be a condition precedent to evacuation that this second committee should have finished its work. General Dawes urged that by some such method it would be possible to get evacuation started on terms which would protect Japanese lives and property and at the same time clear up the claims of Japan under the fifth of their Five Points without delaying the withdrawal of troops. General Dawes said that he was by no means sure that this suggestion originated with Mr. Stimson and I gathered that he believed that it, or something like it, had already reached Geneva and had been mentioned by the Japanese member of the Secretariat.⁴

10. Mr. Matsudaira made no precise comment on the American Ambassador's suggestion, but he hinted that there was a difference between conducting strictly parallel negotiations about evacuation and Treaty rights and starting evacuation discussions first with the prospect of bringing Treaty rights into discussion at a later stage.

11. I pointed out to him that we looked to Japan as an original member of the League to co-operate on lines which would be helpful to all who were going to meet at Paris and that it was important to adopt a line of treatment which would make it clear that Japan would put no unnecessary obstacles in the way of withdrawing her troops from Manchuria.

12. He assured me that Japan had no territorial ambitions in that area and that her only concern was to see that order was preserved in the interests of Japanese subjects and that China should respect her Treaty obligations. Japanese public opinion was roused about Manchuria and there was an impression in Japan that the League was listening too much to the other side. I said that there was no other intention on the part of any of us but to act with equal justice.

13. In the course of the conversation, General Dawes asked Mr. Matsudaira whether the latter was not himself going to Paris for the meeting. He replied

⁴ See No. 708.

that he had had no such instructions. General Dawes said that he was crossing tomorrow and would see Monsieur Briand. He wished the matters we had been discussing together based on Mr. Stimson's message to him to be kept as entirely confidential to us three. He himself had no desire for any suggestion to be put forward as an American plan. He would keep in the background and would be available to give any assistance that seemed useful.

I am, &c.,
JOHN SIMON

No. 729

Sir J. Simon to Mr. Campbell (Paris)

No. 2741 [F 6599/1391/10]

FOREIGN OFFICE, November 13, 1931

Sir,

While paying his official call on me this morning, Monsieur de Fleuriau told me that Monsieur Briand had heard from Mr. Stimson as to the latter's proposal for a mode of treatment of the Manchurian difficulty and referred to the suggestion of the two committees. He said that Mr. Stimson had informed Monsieur Briand that he considered Japan's reply to the American note very conciliatory.

2. I said that General Dawes had told me of the exchange of notes and that I should do everything possible to assist Monsieur Briand to maintain the moral authority of the League.

I am, &c.,
JOHN SIMON

No. 730

Letter from Viscount Cecil to Sir J. Simon

[Confidential/General/349/1]

FOREIGN OFFICE, November 13, 1931

My dear Simon,

In our conversation yesterday¹ I left out one point which however was probably present to your mind. It is this. Under the Coven. resort to war in breach of any of its provisions involves the sanctions provided by Art. 16. Under Art. 12 resort to war without attempting to settle the dispute by arbitration &c. is forbidden. If therefore *now* the Japanese took action amounting to an act of war & the Chinese treated it as such Art. 16 would operate & each member of the League would be required to put it into force. Many acts of war have already been committed by the Japanese e.g. bombing Chinese towns, forcibly repairing Nonni bridge &c. and if the Chinese chose they could treat them as resorts to war and call upon the powers to enforce Art.

¹ No record of this conversation has been traced in the Foreign office archives.

16. Utilisation of Art. 15 makes no difference in this position except that assuming there is no resort to war during the periods foreseen for enquiry & report by the Council & three months afterwards then war becomes legal under the Covt. or rather the sanctions of Art. 16 are no longer applicable if the Council (apart from the parties) is not unanimous. If it is, then the prohibition to resort to war against its decision does involve the sanctions of Art. 16. The result is that if the Chinese made a submission under art. 15 it would make it less rather than more likely that Art. 16 would come into operation, & there would in any case be a probable delay for several months before Art. 16 could come in question. Moreover some satisfaction might be given to the Japanese by providing a settlement of the whole question. On the other hand the settlement or rather the discussion would proceed under the League as the Chinese require and not between the parties alone. Of course if the Americans or any one else can induce the two parties to come to any other agreement so much the better.

Yours ever,
R. C.

No. 731

Sir F. Lindley (Tokyo) to Sir J. Simon (Received December 8)

No. 537 [F 7342/1391/10]

TOKYO, November 13, 1931

Sir,

In continuation of my despatch No. 512¹ of the 30th ultimo, I have the honour to furnish a further report on the course of events in this country connected with the Manchurian dispute.

2. As regards Manchuria itself, the principal incident has been the clash between Japanese troops and those of General Ma on the Nonni River. The origin of this affair was the destruction by the General, on the 16th October, of a railway bridge over that river in order to defend himself from an attack of a rival Chinese force under General Chang Hai-peng. The railway thus interrupted was built with Japanese money, on which no interest has ever been paid, and serves as an important feeder to the South Manchuria Railway. The Japanese therefore requested the Chinese to repair the bridge by the 27th October, and since repairs had not been begun by the 2nd November, warned them on that day that they would themselves begin the work on the 4th November under military protection. The course of events actually leading up to the clash is not yet clear, and, naturally, the Chinese and Japanese accounts of it differ *in toto*. According to the Japanese, General Ma, having promised to withdraw his troops to a distance of 20 miles from the bridge-head, did not do so, but attacked the Japanese detachment which had been thrown across the river to protect the men at work. The Chinese declared that it was the Japanese who attacked, and, whatever may be the truth, a severe engagement took place which lasted several days. Japanese

¹ No. 693.

troops were hurried to the spot, and the result of the fighting was the discomfiture of General Ma, who retreated to the neighbourhood of Tsitsihar. The Japanese having suffered 200 casualties in the engagement, the newspapers put the Chinese losses as high as 1,000 killed. The papers this morning announce that the bridge has now been repaired, but that there is a large concentration of Chinese forces at Tsitsihar which threatens the safety of the Japanese and may lead to further fighting. It should be noted that General Chang Hai-peng was a partisan of the Japanese, and it is difficult to avoid the conclusion that the whole Nonni incident was a part of the campaign of the military leaders against the Young Marshal, to which reference was made in paragraph 4 of my above-mentioned despatch. In this connexion I have the honour to enclose a copy of a despatch from the acting British Consul at Dairen.² In any case, the Minister for Foreign Affairs assured the French Ambassador on the 5th November that the Japanese troops would be withdrawn from the Nonni River as soon as the bridge was repaired. It still remains to be seen whether this assurance will be carried out, but it is not believed here that the Japanese Government have any intention of keeping forces any length of time so far north. Apart from the battle of the Nonni, there have been several reports in the press of serious clashes between the Japanese forces further south and Chinese bandits. On the other hand, the Japanese declare, with what truth it is impossible to judge here, that the peace preservation committees set up by the Chinese at Mukden and elsewhere are functioning satisfactorily. In any case, it will be observed that, as foreseen in paragraph 2 of my above-mentioned despatch, the Japanese occupation of places outside the railway zone, so far from having ceased by the 16th November, has been, temporarily at any rate, extended. We shall be in a better position to judge the true possibilities of the situation when the foreign Military Attachés, including Colonel Simson, proceed to Manchuria on the 20th November in accordance with the invitation officially given to them yesterday by the Japanese Government.

3. A fresh complication arose in Manchuria, during the period under review, owing to the Japanese inducing the Mukden Peace Preservation Society to take possession of the funds of the Salt Gabelle. There seems to have been at first some misconception as to what had happened, but an examination of the case shows that it has for many years been the practice of the Manchurian authorities to make use for local purposes of the whole of the proceeds of the salt tax, except the quota needed for the service of various foreign loans secured on the tax. The Mukden Committee, no doubt at the instigation of the Japanese, had merely followed the previous Manchurian precedent. The only difference is that the committee does not, of course, represent the legal Government of the Three Eastern Provinces.

4. Outside Manchuria, the most serious incident which has occurred during the last fortnight was an outbreak of fighting at Tientsin during the night of the 8th and 9th instant. Here, again, accounts are conflicting, but there is at least a suspicion that the trouble has been instigated by the Japanese

² Not printed.

as part of their campaign against the Young Marshal. At the moment of writing the situation appears to have been stabilised, with the Japanese standing to arms in their own Concession and the Chinese in a state of ferment at a distance of 300 yards.

5. The exchange of notes between M. Briand, on behalf of the Council of the League, and the Japanese Government³ on the subject of the incidents described above has done nothing to ease the situation, though it has had the incidental effect of deflecting from Great Britain on to France a good deal of the ill-feeling felt towards us on account of our supposed anti-Japanese stand at the last meeting of the Council. Moreover, the exchange of these notes, which were, of course, published, has contributed to the ill-feeling towards the League of Nations, which began to be serious as soon as the resolution of the Council of the 24th October became known. The League is accused of being more concerned with the preservation of its own dignity and prestige than with the necessity of arriving at a just and equitable decision in regard to the dispute between China and Japan; and there have been not a few references in the press to the advisability of Japan leaving the League in the event of the latter showing no change of attitude at the forthcoming meeting. Fuel has been added to the fire of anti-League feeling by the reported proceedings of M. Rajchman at Shanghai. This gentleman appears to have been sent by the League to China for reasons connected with sanitation, but, according to the press, he is now acting as adviser to the Chinese Government in foreign affairs and spends his whole time in the telegraph office pouring Chinese propaganda into Geneva. There may be no truth in these reports, but the accounts I have received from independent sources regarding the character of this intelligent Polish Jew are not altogether reassuring.

6. The American Government, working on parallel lines with the League, presented a note, through the American Ambassador here, on the 7th [5th] November. Very wisely, the contents of this note were not divulged to the public, so that the susceptibilities of the latter have not been ruffled by this new intervention. On the contrary, the Americans are held up as the only people who really understand the Manchurian dispute, and who are anxious to find a settlement in conformity with the dignity of the Japanese nation. This impression, even if it is only make-belief, may prove of the greatest utility; and the American Ambassador informed me yesterday that the Japanese reply to his note, which he had just telegraphed to Washington, was of a most conciliatory character and offered a real chance of settlement. Mr. Cameron Forbes did not feel at liberty to divulge the details before his own Government was in possession of them, but I gathered from him that the Japanese expressed themselves as willing to withdraw their troops before their 'fundamental principles' were accepted, provided security was assured

³ For correspondence between M. Briand and the Chinese and Japanese Governments respecting the Salt revenue see *League of Nations Official Journal*, December 1931, pp. 2524-8, and for M. Briand's third appeal to those Governments and for their replies thereto see *ibid.*, pp. 2523-4.

through the local committees which they have set up. In other words, provided the Young Marshal were eliminated. Alternatively, the Japanese Government would agree to evacuate without any particular assurances of security, provided the Chinese Government accepted their 'fundamental principles' unconditionally in advance. These two alternatives show such a great step forward in advance in the Japanese attitude that I am, at the moment of writing, inclined to doubt whether the Ambassador has rightly understood what is proposed. In any case, I am of the opinion, as I had the honour to report yesterday by telegram,⁴ that the Japanese Government are far more likely to make concessions to the Americans, although these concessions will really be equally made to the League, than they are to the League itself. This may appear somewhat childish, but public opinion has been so roused against the League that this may well be the only method by which the Japanese Government feel able to escape from their difficulties.

7. Owing to the general anti-British attitude, to which reference is also made in my despatch No. 533⁵ of the 11th November, I thought it as well to keep entirely in the background during the last fortnight. It was clear that my efforts to persuade Baron Shidehara to take a more conciliatory line had effected no good in the past and would certainly serve no useful purpose at the moment. I have therefore left it to my French colleague to bear the brunt of the affair, and he has been in continual touch with the Minister for Foreign Affairs, and has been kind enough to keep me fully informed of what has been passing between them. Nevertheless, we have been endeavouring here to consider if there were not some possible compromise which we could suggest, and, as a result of Mr. Snow's careful examination of all the notes exchanged recently on the subject of Manchuria, he suggested that a way out might conceivably be found in urging the Chinese to give a definite assurance that they accepted all existing treaties without any reservations regarding arbitration, &c. It seemed to us that it would be very difficult for the Japanese to refuse to consider that such a declaration met the objections raised by Baron Shidehara to the assurance already given by the Chinese, that they considered themselves bound by their obligations under the Covenant to respect treaty rights. At the same time, from the Chinese point of view, the declaration suggested would not bind the Chinese Government to accept the Japanese contentions regarding such things as the prohibition to construct lines competing with the South Manchuria Railway and other Japanese aspirations not covered by existing treaties. This point is further touched on in my despatch No. 539⁶ of to-day's date. The foregoing suggestion was made before I had heard of the Japanese note to the American Government and may now be entirely out of date.

8. In my despatch No. 538⁷ of to-day's date I have reported what details I have been able to learn regarding the military plot to assassinate those

⁴ See No. 726.

⁵ No. 724.

⁶ No. 732.

⁷ Not printed. Sir F. Lindley reported that it appeared that ten officers had been detained for a short time in connexion with a plot to assassinate Baron Wakatsuki, Baron Shidehara, and Count Makino, Keeper of the Privy Seal.

members of the Japanese Government who were believed to be hostile to the views of the military authorities. This question of the ascendancy of the military in the councils of the nation has, though not much ventilated in public, been in reality a matter of great concern to moderate opinion in this country. While it is true that at the present moment the whole nation will be found to be behind anything the soldiers may do, it is not to be supposed that political leaders of the type of Baron Shidehara and Mr. Inouye, the Finance Minister, are prepared to abdicate their functions in favour of such persons as General Minami, the Minister of War, and General Honjo, the Commander of Forces in Manchuria. When this Manchurian business is finally finished there will probably be what our American friends call a showdown between the advocates of constitutional government and the military party; and I am inclined to think that, even though the worst comes to the worst and no settlement should be effected, the soldiers will, in the long run, suffer a severe defeat as the result of their present adventure.

9. Before finishing this despatch I must refer once again to the Russian aspect and reaffirm my belief that the Japanese Government feel no anxiety as regards the attitude of Moscow. In these circumstances, it is rather remarkable that the press should continue to publish reports of Soviet support for General Ma and of bands from Soviet Russia joining his forces. These reports appear to come from the military authorities in Manchuria, and their object, if they are invented, is difficult to trace. It may be that they are merely intended to influence the martial ardour of the troops and to show that it would be imprudent to diminish in any way the armed forces of the nation.

A copy of this despatch has been sent to His Majesty's Minister at Peking.

I have, &c.,

F. O. LINDLEY

No. 732

Sir F. Lindley (Tokyo) to Sir J. Simon (Received December 10)

No. 539 [F 7368/1391/10]

TOKYO, November 13, 1931

Sir,

I noted in the last paragraph of Mr. F. K. Robert's memorandum of the 27th July last, relative to Sino-Japanese railway problems in South Manchuria,¹ copy of which was transmitted to me in the Marquess of Reading's despatch No. 515 of the 6th ultimo, the doubt expressed as to whether any conference of technical experts at Mukden had yet taken place, as had been proposed.

2. In this connexion I have the honour to record that Mr. Snow, Counsellor at this Embassy, in an interview with Mr. Tani, chief of the Asiatic Bureau of

¹ No. 497.

the Japanese Foreign Office, on the 10th September last, was informed that, as General Chang Hsueh-liang had not yet recovered from his illness, no progress had been made in the projected negotiations, and that the Young Marshal's complete recovery was being awaited.

3. Asked on the same occasion if he could give any information about rumoured tripartite negotiations between the South Manchuria, Chinese Eastern and Ussuri Railways, Mr. Tani stated that the Foreign Office had no knowledge of these negotiations, which, according to him, concerned matters of 'technical' interest only. It may be recalled, however, that the Japanese Minister for Foreign Affairs used the same word in the early part of this year in describing to Mr. Snow the character of the proposed negotiations at Mukden.

4. On the 10th instant Mr. Snow had a further conversation with Mr. Tani, in the course of which the latter stated that the three main desiderata of Japan in Manchuria were, in Mr. Tani's words:—

- (1) To avert the northern menace;
- (2) To ensure the rights of Japanese and Koreans to lease land in South Manchuria; and
- (3) To ensure uninterrupted transit and trade between Manchuria and Japan.

Mr. Snow observed that Mr. Tani made no explicit mention of the interests of the South Manchuria Railway. Mr. Tani replied: 'Of course, there must be no encirclement of the South Manchuria Railway. That is covered by the five points which we have presented to China.' Mr. Tani went on to say, with some emphasis, that the protocol of the 22nd December, 1905 (by which China 'undertook not to construct . . . any main lines in the neighbourhood of and parallel to the South Manchuria Railway, or any branch line which might be prejudicial to the interests of the above-mentioned railway'), was definitely one of the treaties the validity of which it was intended to affirm. Mr. Snow remarked that, during the various conversations which he had had with Baron Shidehara, Mr. Tani and others earlier in the year on the subject of the proposed Sino-Japanese negotiations, no particular stress had been laid on the protocol of 1905, and it had been represented that the main Japanese desideratum was to conclude a business arrangement, satisfactory and profitable to both parties, relative to pooling of traffic, tariff rates, &c. Mr. Tani did not demur to this statement, but, nevertheless, he said, the protocol of 1905 'would always have been in the background'. This attitude of Mr. Tani was, no doubt, not inconsistent with the sketch of the probable course of negotiations outlined by Mr. Kinney to Mr. Paske Smith, and reported in the enclosure to Mr. Snow's despatch No. 259² of the 23rd May last.

² Not printed. Mr. Kinney thought that the Japanese negotiators would 'be liberal as regards loans, but stiff in the matter of freights. . . . The Japanese intended . . . to stand firmly by the terms of the 1905 Agreement and would refuse to sanction any more lines at all parallel with their railways.'

5. A day or so before the 10th November, when Mr. Snow saw Mr. Tani, and had the foregoing conversation with him, my attention had been called to a statement of Dr. Wellington Koo, which was reproduced in the press here, to the effect that the protocol of 1905 had never been signed, and I drew the attention of Mr. Nagai, Vice-Minister for Foreign Affairs, to this statement, pointing out that the protocol, as reproduced on p. 251 of the South Manchuria Railway's 'Report on Progress in Manchuria to 1930', is not described as 'signed', though the Treaty of Peking, to which the protocol is stated to have been attached, and the additional agreement to the Treaty of Peking, reproduced on the immediately preceding pages of the same publication, are both there described as 'signed'. Mr. Nagai said he 'thought' the validity of the protocol of 1905 was ensured by certain passages in the *procès-verbaux* accompanying the protocol. In conversation with my Norwegian colleague, who (at my suggestion) again questioned him on the same subject a few days later, Mr. Nagai 'thought' that the protocol was, in fact, signed. This apparent uncertainty of the Vice-Minister for Foreign Affairs in regard to an instrument which constitutes, presumably, one of the most important elements in the present Sino-Japanese dispute, is, to say the least of it, curious. It would also appear that the emphasis with which Mr. Tani, in his conversation with Mr. Snow on the 10th November, dwelt on the protocol of 1905, contrasting with his greater reticence in regard to that instrument during the earlier period of this year, may have been due to my having questioned Mr. Nagai on the subject a day or so previously.

6. I may add that the account of the matter given by Mr. Yang, Counsellor of the Chinese Legation here, is that the treaty of 1905 is 'not in the treaty book of the Japanese Foreign Office'. It is not in the published book, but no great importance would seem, perhaps, to attach to this omission, since article 4, the text of which is given on p. 554 of volume 1 of MacMurray's 'Treaties and Agreements with and Concerning China' (1921), and in which China undertakes to adopt a strong attitude towards Russia, was presumably not an article to which either party would, in any case, have wished publicity to be given at the time of conclusion of the alleged protocol. There is no indication where the text of the protocol was obtained by MacMurray, who expressly states in his preface that inclusion in his collection is not to be taken as implying the validity of any of the agreements included.

7. Mr. Yang also stated in conversation that the main point which divides the Chinese and Japanese in regard to what both sides affect to consider the most important matter at issue between them, viz., the right of Japanese subjects to lease land in South Manchuria, is as follows: Article 11 of the treaty of the 25th May, 1915, between Japan and China respecting South Manchuria and Eastern Inner Mongolia lays down that 'Japanese subjects in South Manchuria may, by negotiation, lease land', &c. The Japanese apparently contend that this means by negotiation with the landlord, and the Chinese that it means by negotiation with the Chinese authorities. Mr. Cunningham, Japanese Counsellor at this Embassy, informs me that the two-charactered expression used is the same in the Chinese and the Japanese

text, and would appear to lend itself equally to either interpretation, it not being specified with whom negotiation is to take place. The sort of difficulties in which this ambiguity can be exploited to involve Korean settlers in South Manchuria may well be guessed from the enclosed letter³ to the 'Japan Advertiser' of the 13th instant, regarding the impositions placed by the Manchurian authorities upon immigrants from Korea.

I have, &c.,

F. O. LINDLEY

³ Not here printed.

No. 733

Sir F. Lindley (Tokyo) to Sir J. Simon (Received November 14, 3.0 p.m.)

No. 227 Telegraphic [F 6603/1391/10]

TOKYO, November 14, 1931, 7.40 p.m.

I asked Minister for Foreign Affairs today how he considered Manchuria could be governed if Young Marshal were eliminated as Japanese obviously desired. He replied Peace Preservation Committees were functioning well and had enabled Japanese to evacuate Mukden and Kirin save for very few men. In fact position east of South Manchurian Railway could be now considered satisfactory. It was bad west of railway where there were few Japanese subjects. He thought Japanese could trust these committees provided they were sure that Young Marshal's troops would not return. Some central administration would have to be set up by Chinese Government eventually and he favoured a civilian High Commissioner as suggested by Canton which was sick of war lords. But this was question which concerned Chinese and not Japan. He hoped that reconciliation between Canton and Nanking would eventuate.

Repeated to Peking for Nanking.

No. 734

Sir F. Lindley (Tokyo) to Sir J. Simon (Received November 14, 3.50 p.m.)

No. 226 Telegraphic [F 6602/1391/10]

TOKYO, November 14, 1931, 7.53 p.m.

Peking telegram No. 147 to Nanking.¹

Minister for Foreign Affairs informed me today that Japanese Government had thought it necessary to call the attention of Chinese Government to protocol of 1901 but that there was no question of ultimatum.

¹ Not printed. This telegram of November 13 transmitted a report by the Military Attaché on the situation at Tientsin and Tsitsihar, in which he stated 'Confirmed that ex-Emperor left [Tientsin] for Dairen with escort November 11. Other reports indicate distinctly destined for Mukden.'

Sir F. Lindley referred to these reports in his despatch No. 556 of November 27 [not

Minister for Foreign Affairs informed me also that instructions were sent last night to General Officer Commanding to attempt to negotiate agreement with General Ma on following lines: General Ma to retire his main body to Tsitsihar and other troops temporarily to the further side of the Chinese Eastern Railway; and to send back forces which have been gathered from Manchuli and elsewhere to their stations within ten days from November 15.

No more damage to railway.

Japanese troops to retire South.

Minister for Foreign Affairs explained that Japanese forces were being gradually surrounded by General Ma's troops and must either reach an agreement or fight. They could not retire without agreement without risk of annihilation in the process. Minister for Foreign Affairs added that Japanese military knew that the Young Marshal had instructed General Ma to fight to the death.

Repeated to Peking for Nanking.

printed) and added: 'On November 16 I asked the Vice-Minister for Foreign Affairs the truth about this business and was informed that Mr. Henry Pu Yi was either at Mukden or Kirin and that the heads of the Chinese Peace Preservation Committees were in favour of proclaiming him [Emperor of Manchuria]. Although Mr. Nagai added that he considered the whole thing as ridiculous he was by no means sure that the Peace Committees would not act. This was not reassuring and I thought it as well to mobilise my French and American colleagues both of whom impressed upon the Minister for Foreign Affairs the folly of this new complication. Baron Shidehara assured Mr. Cameron Forbes that neither the Japanese military nor civil authorities would countenance the proclamation of Mr. Henry Pu Yi; and the latest information we have is that he has left Mukden and is now at Dairen. Let us hope he will remain there—at any rate until the present crisis is over.'

No. 735

Sir F. Lindley (Tokyo) to Sir J. Simon (Received November 14, 5.30 p.m.)

No. 228 Telegraphic [F 6604/1391/10]

TOKYO, November 14, 1931, 8.20 p.m.

It has always been the object of Japanese military to oust the Young Marshal and I believe his presence has now become the main obstacle to the evacuation.

While it is impossible for His Majesty's Government to do anything to effect his removal it may be that the Young Marshal may realise that Japanese will never allow him to regain his position and that he is by means of his . . .¹ imminent danger of sharing the fate of his father.² If these considerations induce him to retire I believe that a settlement might be effected.

Repeated to Peking for Nanking.

¹ The text is here uncertain.

² Marshal Chang Tso-lin was killed when his train was wrecked in an explosion outside Mukden in June 1928.

No. 736

Sir F. Lindley (Tokyo) to Sir J. Simon (Received November 14, 5.50 p.m.)

No. 229 Telegraphic [F 6605/1391/10]

TOKYO, November 14, 1931, 9.0 p.m.

My telegrams Nos. 206¹ and 1 to Geneva² still represent generally my appreciation of the situation. Only serious developments have been hardening of feeling against the League and determination to get rid of Young Marshal. Minister for Foreign Affairs, in long conversation today, made no useful contribution towards settlement.

I suggest respectfully that it is essential that Council should get away from resolution of October 24 which complicated the situation beyond measure and start afresh. It is also essential that time should be given to Japanese Government to digest and consider properly any proposals put before Japan's delegates. Above all it must be remembered that any public debate before an agreement is reached makes a settlement practically impossible in the excited state of Japanese delegation.³

¹ See No. 693, note 8.

² See No. 624.

³ This telegram was repeated to Paris by the Foreign Office on November 16.

No. 737

Sir F. Lindley (Tokyo) to Mr. Campbell (Paris)

No. 1¹ Telegraphic [F 6669/1391/10]

TOKYO, November 16, 1931

Following for Secretary of State.²

Begins:—

Article in 'Nichi Nichi' two days ago stated that America, Great Britain and Japan had privately arranged that Japan should agree at Paris to evacuate immediately in return for Chinese undertaking safeguarding treaty rights and interests of nationals but that proposed undertaking concealed a trap devised by British anxiety to save face of the League and ultimately preserve position of Chiang and Chang.

Vice-Minister for Foreign Affairs showed himself greatly upset by this announcement and the Minister for Foreign Affairs also informed me that he regretted it. Rengo was forbidden to telegraph it abroad and firm denial has been issued that any understanding between the three Powers has been reached or that Japanese Ambassadors are authorised to enter into compromise.

¹ This telegram was addressed to Paris as No. 1, and was repeated unnumbered to the Foreign Office, where it was received on November 16 at 9.0 a.m.

² Sir J. Simon arrived in Paris on November 15.

My inference is that Foreign Office had been willing for compromise but that public [*sic* ? publication] has been prejudicial.

I do not know whether any formula such as that in my telegram No. 221³ may be under consideration but assuming that Sir C. MacDonald's despatch No. 72 of 1906 correctly describes protocol of 1905 as merely informal agreement, value of which depends on China's goodwill, I suggest that it would be preferable to substitute for word 'delimitation'⁴ wider expression such as 'agreements' which would not definitely exclude arrangements of nature in question.

If at a later date Chinese argued that agreement never existed it might be then still open to Japanese to reply that informal agreement existed and that the purpose of new declaration was to give it formal validity.⁵

Repeated to Foreign Office.

³ No. 721.

⁴ It was suggested in the Foreign Office that this word should read 'treaties'.

⁵ Mr. MacKillop minuted on November 18: 'The validity of the 1905 protocol seems to have been clearly established . . . so Sir F. Lindley's new suggestion is unnecessary.'

CHAPTER XII

Further negotiations to secure a settlement of the Manchurian dispute during the session of the Council of the League of Nations: the situation at Chinchow: the Council's resolution of December 10 (November 16–December 11, 1931)

No. 738

Mr. Campbell (Paris) to Sir R. Vansittart (Received November 17)

No. 165 L.N. Telegraphic: by bag [F 6670/1391/10]

PARIS, November 16, 1931

Following from Mr. Cadogan.

There was a short public meeting followed by private meeting of the Council this afternoon.¹ At the public meeting M. Briand merely gave an *exposé* of the existing situation. At the private meeting he said that the issue now appeared to turn on the fifth point of the Japanese demands. In regard to this, some members of the Council had suggested to him that this fifth demand might in fact be found in part to involve the question of security. This was a new idea, and it seemed to him that further private conversations were required to elucidate this point before progress could be made. He deprecated any general debate at the present juncture. He would therefore propose that private conversations should be initiated tomorrow morning and that a meeting of the Council might perhaps take place later in the day.

He added that he had been informed that General Dawes had been instructed to follow the proceedings of the Council, and if it became necessary once more to invoke the Pact of Paris, he felt sure that an invitation to General Dawes to attend the Council in the capacity of an observer would meet with a favourable response.

Dr. Sze said he had no desire to embark on a debate at the present stage but he would ask that the matter should be treated with the utmost speed, and, in view of the tense state of opinion in his country, that meetings should as far as possible be held in public.

¹ See *League of Nations Official Journal*, December 1931, pp. 2362–4.

*Memorandum by Viscount Cecil (Paris)*¹

[*Confidential/General/349/1*]

PARIS, November 16, 1931

The possibility of arriving at some settlement of this dispute depends entirely on what is the real policy of Japan.

If she desires to establish what would be in effect a protectorate over Manchuria she will not agree to any withdrawal of her troops until that has been accomplished. On the contrary on one pretext or another she will advance them and reinforce them. Meanwhile she will doubtless give soothing assurances and professions of a desire to withdraw. Such a policy is consistent with her actions during the past six weeks, the bombing of towns, the resistance to the collaboration of the United States of America, the advance to the Nonni river, the threat to Tsitsihar—which since it may involve raising Russian hostility cannot have been lightly undertaken, the creation of incidents like that at Tientsin, the elaborately staged send-off to the ‘reliefs’ for China, the threat to assassinate the Young Marshal.

There seems little doubt that a protectorate is in fact the policy of the Military party in Tokyo.

If on the other hand the avowed policy of Japan is the real one and she only seeks security for her nationals in the event of her withdrawal then it ought to be easy to discover some arrangement either on the lines we discussed this morning² or on some other which will give her the security she seeks. It must be remembered that in point of fact that [*sic*] of all the many unprotected Japanese scattered through the length and breadth of China not one has been killed since this question arose.

The first thing to do is if possible to clarify the situation and I would suggest the following steps:—

1. Matsudaira might be asked with Bismarckian frankness what his Government really wanted. If he said security he should be pressed to say exactly what he meant and what suggestions he had to make to bring it about and exactly why he thought they would be useful for the purpose.

2. The Japanese might be offered every plan for giving them security e.g. the presence of League or neutral observers, the pledges of China to deal with outstanding grievances—pledges to be made to outside powers as well as to Japan. If these are refused the reasons for refusal might be asked.

3. The above *démarches* might be first made privately and then repeated in public session of the Council.

If the result of these efforts should be negative it might be demonstrated very clearly and repeatedly what would be the effect of the existing propositions of Japan viz: the indefinite postponement of evacuation and she might be asked if that was her wish.

¹ This memorandum was prepared for Sir J. Simon.

² No record of this discussion has been traced.

When by some such steps as these diplomatically garbed the Japanese policy has been elucidated our policy can be settled. If anything in the nature of coercion is ruled out—as I gather it is—and we are eventually satisfied that the object of Japan is a protectorate, the only course seems to be reprobation of Japan and abandonment of China.

It may be that the Japanese will succeed in evading any clarifying process. In that case the only thing left is a formal commission of enquiry under Article XV—unless Japan will agree to an enquiry under Art: 11.

R. C.

No. 740

United Kingdom Delegate (Paris) to Foreign Office

(Received November 18)

No. 129 [F 6679/1391/10]

PARIS, November 16, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copies of the record by the Secretary of State of a conversation with M. Briand on November 16.

ENCLOSURE IN No. 740

PARIS, November 16, 1931

I called on M. Briand at the Quai d'Orsay this morning. After exchanging reminiscences of our previous meetings, he discussed with me the present position of the Manchurian affair in relation to the resumed session of the Council of the League which takes place this afternoon at 4. I told him that I desired to co-operate in maintaining the moral authority of the League and that the British Government would support his efforts in this direction to the fullest extent. I told him that I understood from General Dawes¹ that Mr. Matsudaira, who had come over for the meeting, was in communication with Tokyo as to the attitude the Japanese representative might take up and raised the question whether at today's public session M. Briand proposed that there should be a general discussion. He said no. He proposed that the public session today should be purely formal. I asked him whether he pro-

¹ The following report by Sir J. Simon, dated Paris, November 15, 1931, was transmitted to the Foreign Office under cover of the United Kingdom Delegate's despatch No. 130 of November 16: 'Shortly after reaching the Embassy I was rung up by General Dawes from the Ritz. He said that Matsudaira was most concerned at the state of public feeling in Tokyo and that if at to-day's session of the Council Yoshizawa was called on to speak, he would repeat the *non possumus* attitude of last time and the prospects of accommodation would be defeated. Matsudaira had cabled moderating advice to his Government in the hope of getting milder instructions. Therefore General Dawes urged that apart from Briand's opening statement there should be no further public discussion today and asked me to suggest this to Briand when I saw him tomorrow morning. J. S.'

posed to give a resumé at today's meeting. He told me in reply to my question that he would give an account of the affair up to date and then the public sitting would be adjourned in order that a private meeting might take place immediately afterwards.

As to the merits of the controversy, he laid stress on the peculiar character of the Manchurian situation. It was not a case in which two States were in controversy on equal terms, each controlling its own territory with its own organisation, because in Manchuria the Japanese guards looking after the railway merged into a force discharging military operations and the military aspect of Japanese troops was again bound up with protecting lives and property in relation to the railway. It was therefore a mixed problem. He laid stress on the circumstance that Japanese insistence on maintaining her position, notwithstanding her membership of the League of Nations, might provide a precedent which would suggest itself for other possible cases which were not in the Far East. I asked him as to the mode of treatment of the problem which was in his mind and he spoke, rather vaguely, of the possibility of dividing the problem which the Council has to handle into two, one, a negotiation for securing the withdrawal of troops to the railway zone in connexion with matters of Japanese security, and the other the solution of the treaty position. He thought that the fifth point of the fundamental principles referred to by Japan might include some matters which touched on the first issue and suggested that the fifth point, when analysed, might have to be sub-divided and so much of it as was concerned with security (e.g. the prevention of incursions which jeopardised the South Manchurian line) would form part of the first negotiation. The withdrawal of Japanese forces must be undertaken before the treaty position was settled, otherwise discussions might go on till Doomsday.

I raised the question as to the dispute being brought before the League under Article 11, and as to the suggestion that had been made in some quarters that since Article 11 was producing no definite result, the matter might be shifted to Article 15. M. Briand was very strongly against Article 15 being raised on the ground that it would bring us nearer to Article 16 and raise the question of sanctions which, he observed, would make difficulties for Britain in particular as well as for other Powers. His idea evidently is to handle the affair in private discussion in such a way as to prevent reference to Article 15. I mentioned the disturbances at Tientsin and said we took a grave view of them. He said that he did not doubt that it was true that the disturbance had started from the Japanese concession.

I told him that I was obliged to return to London in the course of Thursday² as we had some important Cabinet questions on Friday. He was good enough to say that he would arrange the time-table in such a way as was convenient to me. I told him that now that I had seen him I was anxious in turn to see M. Laval as there were big questions arising between Britain and France. He expressed his entire concurrence and agreed with me as to the importance of the two Governments co-operating.

J. S.

² November 19.

Sir E. Ovey (Moscow) to Sir J. Simon (Received November 23)

No. 601 [F 6812/1391/10]

MOSCOW, November 16, 1931

Sir,

I had the honour to inform you yesterday by telegraph¹ of the gist of a communication made by M. Litvinov to the Japanese Ambassador in Moscow with regard to the Manchurian question. I gather the object of this communication, a translation of which I enclose herein,² was that an expression of the views of the Soviet Government should be before the Council of the League of Nations when its session opens today.

2. Generally speaking, public opinion seems to be remarkably little agitated in Moscow and the idea of the possibility of an armed conflict between Russia and Japan does not appear to have presented itself to the man in the street. M. Litvinov, when I mentioned the matter to him on Saturday,³ was noncommittal. He was interested to know what was the attitude of His Majesty's Government to which I replied with vague generalities. I told him that my impression was that his Government were endeavouring to avoid any serious complications, to which he replied that it took two to make peace or war. If the Japanese remained South of the Chinese Eastern Railway, there would be no trouble. Generally speaking, he explained the Japanese attitude in regard to the alleged support given by the Soviets to the Chinese⁴ as a manoeuvre to acquire the sympathy of the League of Nations—a form of diplomacy which did not strike him as being in any way abnormal. Mr. Strang has mentioned the possibility of the existence of some private Soviet-Japanese agreement. Hitherto no such agreement could be definitely traced, but yesterday's communiqué clearly refers to certain Japanese assurances. At the theatre last night a friendly Russian, intimately connected with foreign affairs, spoke almost with admiration of the outspokenness of M. Tanaka, the predecessor of the present Japanese Ambassador, with regard to their designs in Manchuria. The Japanese would, he had said, rather leave the League than allow the League to meddle in Manchuria.

3. Some of my colleagues are struck by what they consider the moderate

¹ This telegram is not printed.

² Not here printed. The enclosure comprised the statement printed in a variant translation by Jane Degras, *Soviet Documents on Foreign Policy*, vol. ii, pp. 514–15.

³ November 14.

⁴ In this connexion Sir E. Ovey was informed in Foreign Office despatch No. 1128 of November 17: 'The Soviet Chargé d'Affaires called at the Foreign Office on the 10th November and said that he had been instructed by his Government to inform His Majesty's Government in the United Kingdom that there was no foundation for the rumours which had recently been spread that the Soviet Government were supplying arms and munitions of war to the Chinese in Northern Manchuria. The Soviet Government had no interests there and there was no reason why they should intervene.'

character of M. Litvinov's statement which, while referring to 'Soviet interests' in Northern Manchuria, seems to imply that these interests would be affected by the paralysis of the working of the line resulting from its interruption, rather than by the mere fact of Japanese forces either reaching or crossing it.

I have, &c.,
ESMOND OVEY

No. 742

United Kingdom Delegate (Paris) to Foreign Office (Received November 18)

No. 133 [F 6684/1391/10]

PARIS, *November 17, 1931*

The United Kingdom Delegate to the League of Nations presents his compliments and, with reference to his despatch No. 132,¹ has the honour to transmit copy of a letter dated November 15 from Sir E. Drummond to Mr. Cadogan respecting possible procedure in the Sino-Japanese dispute.

ENCLOSURE IN No. 742

Sir E. Drummond to Mr. Cadogan

LEAGUE OF NATIONS, PARIS, *November 15, 1931*

Many thanks for your letter on the Vigier scheme.¹ Perhaps I did not sufficiently emphasise one point with regard to it, namely, that it could only be utilised as a last resort, and in case everything else failed. I had no idea that it should be put forward at the present stage of the affair, but I agree with you that it may be better to abandon it altogether. If so, however, what are we to do? Now, as I see the situation, the only thing we have really to work on is the September 30th resolution. That resolution can be divided into two component parts: the first, evacuation; the second, security. They are mutually interdependent. There is, therefore, no reason why the Council should not recommend to the two parties that direct negotiations should at once be begun on evacuation and security. These negotiations could be separate but parallel, or else merged. But in order that the Council may make any recommendation it is necessary, I think, to obtain from the Japanese some definite statement as to what they mean by security. For instance, they stated in their reply to Briand's note that the first four points were not sufficiently covered in the resolution of October 24th. They speak

¹ Not printed. This despatch of November 17 transmitted copies of a letter of November 14 from Mr. Cadogan to Sir E. Drummond respecting a scheme for the solution of the Manchurian question put forward by M. Vigier of the League of Nations Secretariat. Mr. Cadogan told Sir E. Drummond that 'the first reactions here to the Vigier scheme are not very favourable'.

of other implications of those four points. It would be most useful to know what they are.

There remains the famous fifth point. I think that we ought to ask them to define more closely their intentions on that. Do they bring the interpretation of treaties into it, and if so, how is that to be reconciled with security? This seems to me to be somewhat important, as the American attitude up to now has been that they cannot recognise the occupation of territory as a method for securing the interpretation or recognition of the validity of contested treaties. They might also be asked whether Sze's letter about treaties² does not satisfy them, and if not, to what treaties it referred. If they would state what those treaties are, the Chinese representative could be asked whether he accepted them, and if he said No, his reasons for not doing so. The Council could then say to the two parties that as there was disagreement about the validity or interpretation of these treaties, it would be willing to ask for an Advisory Opinion from the [Hague] Court. I think it is certain that the Japanese would refuse. Taking this for granted, I think then that the Council might definitely ask the Japanese whether they would agree to negotiations being opened immediately on evacuation and security, with a solemn engagement by the Chinese representative taken before the Council that on the day on which evacuation was complete, direct negotiations on the treaty points should begin. It is true that this suggestion has already been put to the Japanese, and that up to now they have not agreed to it, but it has never been made public, and I cannot help feeling that they would be in a very difficult position if this were done.

But supposing, as may unfortunately be the case, all this fails, then I feel that the Council can only say that it regrets very much what has happened, that it will continue its work under Article 11 of the Covenant, that it expects the resolution of September 30th to be fulfilled, and that it cannot refrain from expressing formal disapproval, in accordance with the first suggested step in the report adopted by the Council on December 8th 1926,³ with regard to the application of Article 11, of the Japanese refusal to accept proposals which seem to it to be fair and equitable, and indeed, which have gone to the limit to satisfy the Japanese desires. In view of the special circumstances of the case, and of all the preceding history and events, the Council does not, for the time being, desire to proceed further, but it would be glad to be informed by the Japanese Government of the steps it takes to execute the engagements it has already entered into under the resolution of September 30th.

This may, of course, seem rather weak, but I think it is the best that can be done. To my mind it would be much worse if the Council endeavoured to force the Chinese Government to accept direct negotiations on all the five points (unless the fifth was very considerably altered) as long as Chinese

² See No. 689, note 2.

³ See *League of Nations Official Journal*, February 1927, pp. 133-8 and 218-28, for consideration by the Council of a report concerning the rapid working of the organs of the League in case of emergency: see also No. 664, note 4.

territory is occupied. To do so would create the most dangerous precedent for the future, and further, I do not for a moment think that the Chinese Government would agree.

The Japanese apparently would be willing now to institute direct negotiations for evacuation with the local Manchurian authorities, but this to my mind is equally impossible, as it would mean that the League would recognise that these authorities were independent of the central Chinese Government. Ultimately I think the Japanese will have to come to terms with that Government, because the continued boycotting is beginning to affect them very severely, and Japan would certainly like the League's help in trying to put a stop to this, but if we give them that help, they must be ready to give us something in return, and at present they shew no signs of doing so.

I have had no news of Walters yet,⁴ which perhaps is rather a good sign, but I may know more this evening, as Sugimura is seeing the various Japanese Ambassadors who are congregated here.

I shall hope to talk the whole question over with you some time to-day, but meanwhile you may like to have this preliminary explanation of my present views, and perhaps you may think it worth while to pass it on to the Foreign Secretary, who I hope will be able to see me before long.

Yours ever,

ERIC DRUMMOND

⁴ The United Kingdom Delegate at Paris transmitted to the Foreign Office under cover of his despatch No. 136 of November 17 the following note by Sir E. Drummond, dated Paris, November 16, 1931:

'I had a telegram from Mr. Frank Walters last night, in which he states that the Japanese Foreign Office share to some extent the strong popular feeling against the League. He gathered this from an interview, which was quite cordial, which he had with the Vice-Minister for Foreign Affairs. Apparently one of the reasons for this feeling is that the Foreign Office hold that the Council acted, in proposing its resolution of October 24th, in too great a hurry, and that M. Yoshizawa was not allowed sufficient time to report on and to consider the points in that proposal.

'Mr. Walters states that the messages in the Tokyo press indicate that proposals for a possible compromise, particularly as regards the five points, are being considered by the Japanese authorities. It is held in some quarters that the action of the Council has resulted in some limitation of the military activity. He believes, however, that the resolution of October 24th led public opinion to support more strongly than before the military elements. He therefore suggests the following points for consideration:—

'1. That it is of great importance that no appearance of haste should be given at the present Council Meeting;

'2. That any suggestion that sanctions are to be applied should be avoided, as this only leads to the strengthening of the military elements;

'3. That the present Council should take as its starting basis the resolution of September 30th, and not the draft resolution of October 24th, since the latter is not legally valid. This, Mr. Walters considers, would result in an improved atmosphere in Tokyo.

'4. That the Council should, if possible, make a declaration that any essential treaty rights possessed by Japan in Manchuria must in the future be respected.'

United Kingdom Delegate (Paris) to Foreign Office (Received November 18)

No. 135 [F 6686/1391/10]

PARIS, November 17, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copies of a letter dated November 13 from Sir E. Drummond to Mr. Cadogan respecting the attitude of the Paris press towards China and Japan.

ENCLOSURE IN No. 743

Sir E. Drummond to Mr. Cadogan (Paris)

LEAGUE OF NATIONS, GENEVA, November 13, 1931

I have learned very confidentially that the Rome people—Grandi being away—have been encouraging the Japanese, and saying that they do not at all agree with the action taken by the Council on the 24th October (this in spite of the fact that they formally voted for it).

Of course they may have in mind solely their attitude at the time of the Corfu incident, and wish to be consistent; but I cannot help being somewhat suspicious, and thinking that they have equally in their thoughts the possibility of an occupation of Albania.

It is this kind of thing that is so alarming in the present situation, and why I do not think that the Council can yield on the question of principle.

You will, no doubt, also have noticed that some of the French Press is extremely unfavourable to Briand's policy on the subject. Comert¹ tells me confidentially that this is largely the result of the armaments firms, *vide*, for instance, last evening's leading article in the 'Temps'. He further says that unhappily the French Press is, to a great extent, treating this question as one of internal politics, and that they see in it the possibility of launching a violent attack on Briand, and perhaps getting rid of him.

It is all very short-sighted on their part, but once a matter is dealt with on the lines of internal politics in France, the situation always becomes difficult. Comert asked me whether it might be possible for the Foreign Secretary to say something to Laval about the line which the Paris Press is taking on the affair. He thinks that this would be far more effective than a conversation with Briand, since the latter is fully aware of these internal manoeuvres. I pass the suggestion on to you for what it is worth. It may not be feasible, but anything that can be done to make Laval understand the gravity of the present affair would certainly be all to the good.

Yours ever,

ERIC DRUMMOND

¹ Director of the Information Section of the League of Nations Secretariat.

United Kingdom Delegate (Paris) to Foreign Office (Received November 18)
No. 137 [F 6689/1391/10]

PARIS, November 17, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copy of the record¹ of a private meeting of the Council of the League of Nations on November 17 regarding China and Japan.

ENCLOSURE IN NO. 744

PARIS, November 17, 1931

The members of the Council except the Japanese and Chinese delegates met privately at the Quai d'Orsay at 11.30 a.m.

M. Briand said that there were two hopeful features in the situation. On the one hand the Chinese Government had declared its full readiness to respect treaties in accordance with the obligations imposed on it by the Covenant. On the other hand the fifth point put forward by the Japanese Government might, as it seemed to him, relate to certain matters that concerned security of Japanese lives and property. If that should prove to be so, it might be right to demand discussion of such matters before evacuation was complete. He would also remind his colleagues that the Japanese delegate had taken every opportunity of repeating that the Japanese Government had no annexationist designs. He considered it a good omen that, despite all the movements of Japanese troops in Manchuria there had been no attempt to increase the total number of Japanese troops beyond the establishment of 16,000 which was allowed by their treaty rights. He thought it might be a good thing to make representations to the Japanese Government urging that this number should in no case be exceeded. He suggested no means of advancing the question further in the immediate future, but he hoped members of the Council might use their influence on the parties to bring them to a conciliatory frame of mind.

M. Scialoja² said that the object of the present activities of the Council under Article 11 was to remove the existing threat of war. He did not know that it was necessary for the Council to go into the question of removing all possible causes of future threats of war. He thought their efforts should be confined to the present emergency. If, on the other hand, there was any dispute between the Chinese and Japanese Governments as to what treaties were valid and binding, such a dispute might appropriately be referred to the Hague Court.

After M. Briand had pointed out that the Council had been compelled to embark on a consideration of the fundamental differences between China

¹ This record was made by the British representatives for the use of His Majesty's Government.

² Italian delegate to the Council of the League of Nations.

and Japan by the fact that the Japanese Government themselves made the solution of this question a condition of evacuation of the occupied territory. Sir John Simon asked whether any progress had been made towards elucidation of the famous fifth point of the Japanese demands. The insistence of the Japanese Government on the recognition by China of treaty rights might mean merely that it required the Chinese Government to make a formal declaration that all treaty rights would be respected (and he could not imagine that the Chinese Government would refuse to give such an assurance) or it might mean that the Japanese Government wished to bind the Chinese Government formally and explicitly to recognise certain particular treaties. It seemed to him of primary importance to find out exactly what the Japanese Government had in mind. Otherwise the Council was working in the dark. It was quite possible that if the Japanese Government could be brought to explain precisely what points were covered by the fifth demand, some of these points might be found to be intimately bound up with the question of security. If so such points would require to be discussed at once in connection with the whole problem of security, on which the Japanese Government had made evacuation dependent. Other points covered by the fifth demand which had no bearing on security might very well be reserved for future discussion. In any case he thought the Council could make no progress until it knew what the Japanese Government did mean and he suggested that steps should be taken to induce the Japanese Government to disclose their intentions.

Sir E. Drummond recalled that the Japanese Government had insisted on the settlement of the problem of security and that this point had been embodied in the resolution of September 30th which was binding on the Council. He agreed that it would be a good thing to induce the Japanese Government to explain precisely what points were covered by their conception of security. He thought that such an explanation could be obtained, though not without some delay, and he suggested that the Council should adjourn temporarily in order to give time for the Japanese delegation to furnish an explanation.

Sir John Simon said he had no objection to an adjournment provided that it was explained that the object of this adjournment was to obtain further explanations from the Japanese Government. He thought that an unconditional adjournment without any explanation would create an impression of impotence.

It was agreed that the members of the Council other than the parties should meet again to-morrow, Wednesday morning, at 11 o'clock and that in the meantime an attempt should be made to elicit from the Japanese delegates particulars regarding the fifth Japanese demand.

United Kingdom Delegate (Paris) to Foreign Office (Received November 18)

No. 138 [F 6688/1391/10]

PARIS, November 17, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copy of a minute on the Manchurian Affair by the Secretary of State, dated November 16.

ENCLOSURE IN NO. 745

Minute by Secretary of State on the Manchurian Affair

PARIS, November 16, 1931

There is strong reason to fear that, unless some new mode of treatment can be suggested, this troublesome matter may drag on indefinitely and the prestige of the League will greatly suffer. Up to the present the Council of the League has appealed to both sides in the controversy to exercise restraint and has taken note of Japan's assurance that she will withdraw her troops as soon as circumstances permit. But, as things are going at present, Japan will consider that circumstances do not permit for a long time. And the fundamental condition which Japan seeks to lay down, that the Treaty position between herself and China in reference to Manchuria should first be cleared up, gives endless opportunities for delay.

The practical question is whether Japan's willingness to withdraw could be stimulated by anything which the League could do. Is there any point where she might feel it was in her own interest to withdraw because she will gain something which she has not now got?

It seems to me that there is one point in which Japan is at present in a very weak position and where it might be possible to get her withdrawal in view of that position being strengthened. Her juridical position in Manchuria is weak, for her troops are on Chinese soil where, on League principles, they have no right to be. It may be a very good practical answer that Japan's troops are where they are because Japanese lives and property in Manchuria need protection, but on League principles in such a case Japan should not occupy Manchuria first and argue afterwards but should rely in the first instance on an appeal to the League. Japan therefore at present is exposed to the reproach that she is acting contrary to the principles of the League whatever may be the practical justification or the excuse which public opinion may make for her. Presumably Japan would prefer, other things being equal, to act as a faithful member of the League should. Is it possible to devise a solution which Japan might be willing to embrace because she would get out of the juridical weakness of her present position?

Japan is not prepared to withdraw in return for China's undertaking to respect Treaty rights because experience shows that such undertakings are

not always trustworthy. But suppose that China at the same time delivered a note giving such undertakings to the other States and to the United States of America, the result would be that if China disregarded her undertakings in the future she would be disregarding a promise made to the Council of the League and to America and Japan would be able to point to this fact and urge that China was the wrongdoer and that all the Powers to whom China had given assurances should press for compliance. Is it not worth while considering whether such a promise given to the other Powers and America is possible and whether Japan would not regard it as valuable for the reason above given?

The immediate origin of the Manchurian trouble in its present critical stage was, I understand, railway competition with the South Manchurian Railway. It may be that there are other railway questions between China and Japan in Manchuria. Substantially, however, the main point seems to be that Japan regards the maintenance of her economic interests in Manchuria as vital to her continued existence as a nation, and these economic interests have been threatened by the action of China who, while allowing the railways in China proper to go to rack and ruin, has embarked during the last 6 or 7 years on a vigorous policy of railway construction in Manchuria. The Japanese seem to have feared that the effect of this policy would be to ruin the South Manchurian Railway and thus undermine the economic position which Japan is entitled by treaty to enjoy in Manchuria. It is possible that there can be no real security for Japanese life and property in Manchuria until there has been a *détente* of such a character as to preclude the possibility of a resumption of this economic attack upon the Japanese position immediately the Japanese troops are withdrawn. Would it be possible, therefore, to urge China, as part of the arrangement suggested in the preceding paragraph, to enter into an agreement with Japan to appoint a Commission for the purpose of drawing up a working arrangement with a view to ending unfair competition and securing the operation of Manchurian railways as a combined system? This agreement between China and Japan might also be repeated in the note given by China to the other Powers.

If undertakings and arrangements on these lines were practicable, Japan ought to be prepared to withdraw her troops when they are signed, for she would no longer be relying on China's promise. She would have gained two points of great importance:

- (1) the knowledge that if China defaulted Japan could ask the League and America to join in bringing pressure on China in view of China's promise to them, and
- (2) an agreement to reach an adjustment of the railway trouble.

Japan would be quick to note that such a solution as this puts her in a strong legal position for the future, whereas she is now in a weak one. China would at any rate be able on these terms to get Japanese troops withdrawn. The League would have taken an effective part in clearing up the situation.

and would emerge from it without discredit. But if something of this sort is not possible, it is difficult to see how, as a practical matter, Japan can be induced to withdraw or how a severe blow to the moral authority of the League can be avoided.

No. 746

Letter from Sir J. Simon (Paris) to Mr. Ramsay MacDonald

[Confidential/General/349/1]

PARIS, November 17, 1931

My dear Prime Minister,

I am most grateful to you for your private and confidential letter about this visit of mine to Paris¹ and am very happy to feel that I have your confidence in what I am trying to do. I enclose a full note of the interview I had with Laval this morning.² We got on very well together indeed and parted I believe on a basis of mutual esteem. His frankness and outspokenness and absence of rhetoric are a refreshing relief, especially after the meanderings of poor old Briand. I bore in mind your warning to use no language which could possibly be interpreted as making commitments on the part of His Majesty's Government, but I put to him the British situation in relation to Germany's commercial obligations very firmly and frankly. He was obviously most anxious to assure me that however strong his language might be before the Chamber when he speaks tomorrow, he *really* understands that the only course for Europe is moderation and good sense.

This Manchurian business before the Council of the League of Nations might drag on for weeks and I see no daylight at all, though I am on very good terms with both the Japanese and the Chinese representatives. But the plain fact is that Japan does not mean to withdraw her troops until she gets much more satisfaction than she is likely to get from China out of mere persuasion. On the other hand the only thing the Council can do is to avoid threatening Sanctions and to give good advice and to appeal to everybody to behave.

I hope you agree with the view which I hold that anything is better than going on from day to day with private meetings which lead to nothing and can only undermine the moral authority of the League. If the Manchurian situation is one which League authority cannot clear up it is a pity. But it would be much better I think for the League to face that fact, if it is a fact, and to tell Japan that whatever may be her economic or practical case the League cannot as a League confirm the continuance of Japanese troops on Chinese territory and regrets that it is not possible owing to Japanese opposition to reach a unanimous and effective conclusion. This is not satisfactory but if all efforts at adjournment fail it is better than pretending (what nobody believes) that the League is really in a position to control the situation.

¹ Not printed. This letter of November 14 related to other topics for discussion in Paris.

² Not printed. Cf. Volume II of this Series, No. 293.

However Drummond thinks that there is a chance of reaching some accommodation. Dawes is being very active and talks about the Nine Power Pact of the Pacific and some way out of the fog may unexpectedly emerge.

I return on Thursday³ morning so as to be available for your India Cabinet on Friday.

J. SIMON

³ November 19.

No. 747

Sir M. Lampson (Nanking) to Sir J. Simon¹ (Received November 19)

No. 319 Tour: Telegraphic [F 6714/1391/10]

NANKING, November 18, 1931, 7.35 p.m.

It is difficult to know how far to trust such things but I get growing impression of a certain guarded readiness here to compromise on reasonable lines. This emerges from various information from personal talks with Wellington Koo who is now an influential member of Foreign Affairs Commission which is in daily session for the handling of this crisis.

2. I have tried to extract from him exactly what sort of compromise might be acceptable, more especially regarding the validity of the 1905 and the 1915 treaties which seem to me the crux but so far have nothing helpful. I told him that if at any time he had any definite and *authoritative* suggestion to make I should be happy to lay it before you *confidentially*: but he must give me actual wording and also satisfy me that it came from Foreign Affairs Commission as a whole and could thus be taken seriously.

3. He said that he was grateful and would bear this offer in mind. Meantime possibly in Paris M. Briand, you and General Dawes might be working on some form of compromise you might not feel able to discuss with Dr. Sze. If that should at any time be the case and you should think it helpful that Nanking Government should know lines on which and for which you were working you might like to let them know through me. It might aid Foreign Affairs Commission in their deliberations and shaping of China's policy.

4. Dr. Koo's position is somewhat anomalous as politically he is not in with the present governing clique and we must always be a little careful therefore in dealings with him. On the other hand he is versed in our ways and understands foreign politics and League machinery etc., better than probably any other Chinese statesman, and I do not doubt that he is honestly desirous to be helpful. This is also the impression of United States Minister.

5. I believe that Dr. Koo shares my view that what really matters much more than prior evacuation is some safeguard during the main negotiations—e.g. presence of some form of outside restraint on *both* sides during the discussions. He had even got as far as considering where those discussions could take place to be out of range of prejudicial local atmosphere mentioning alternatives of Geneva or Manila.

Repeated to Peking and Tokyo.

¹ This telegram was addressed to the Foreign Office through Paris.

No. 748

Sir R. Lindsay (Washington) to Sir R. Vansittart

(Received November 19, 9.30 a.m.)

No. 713 Telegraphic [F 6710/1391/10]

WASHINGTON, *November 18, 1931, 7.38 p.m.*

Your telegram No. 781.¹

I questioned the Under Secretary of State today about the alleged statement by Mr. Stimson to Japanese Ambassador at Washington to the effect that the United States Government would never join in any sanctions or even menaces against Japan. He assured me that no such statement had ever been made and that to have spoken so would have had most unfortunate results.²

I tried to elicit his views as to sanctions in general but he was completely non-committal.

I nevertheless adhere to the view expressed in the last paragraph of my telegram No. 682.³

¹ No. 717.

² Sir F. Lindley subsequently stated in his telegram No. 258 of December 24: 'I never suggested that observation [see No. 714] was made to Japanese Ambassador. It was made to representative of another Power whose name I am not free to divulge.'

³ No. 719.

No. 749

United Kingdom Delegate (Paris) to Foreign Office (Received November 19)

No. 141 [F 6715/1391/10]

PARIS, *November 18, 1931*

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copy of a minute by Mr. Cadogan respecting a meeting on November 17 between the Secretary of State, Lord Cecil and Sir E. Drummond regarding China and Japan.

ENCLOSURE 1 IN No. 749

PARIS, *November 18, 1931*

Mr. Matsudaira called yesterday evening on the Secretary of State and handed him the annexed document (enclosure 1)¹ indicating the points which the Japanese Government desired to secure in connection with the evacuation of Manchuria.

¹ Not printed. This document comprised a French version of the communication made to General Dawes, printed in *Foreign Relations of the United States 1931*, vol. iii, p. 468. See also No. 750, enclosure.

About the same time Sir Eric Drummond asked to see me and handed me the annexed minute (enclosure 2) of an interview with Mr. Sugimura recording a discussion with the latter of the real intentions of the Japanese Government in regard to point 5 of their demands.

There was a meeting at the Embassy last night of the Secretary of State, Lord Cecil and Sir Eric Drummond to discuss the latter paper.

Lord Cecil pointed out that the plan outlined therein would really involve an abandonment by the Council of its main principle that evacuation should precede direct negotiations on the railway situation. Sir Eric Drummond said that there was a possible alternative plan. He had asked a Japanese friend to enquire of the Japanese Delegation whether they would by any chance be disposed to ask only for the commission of investigation as outlined under point 2 of Mr. Matsudaira's note, leaving the other questions aside; that is to say, that if such a request for a commission were received from the Japanese Delegation, the situation in regard to the occupation of Manchuria would be left for the moment where it was. Sir Eric Drummond said that any commission of investigation of the kind proposed would probably take the best part of a year to fulfil its mission. It was generally agreed that if this could be obtained it would probably be the best means of procedure; it would afford the League an opportunity of enquiring into the whole situation such as it might have under Article 15, but there would be the advantage in this case that the commission would be appointed and the whole procedure would continue under Article 11. It was pointed out that Mr. Matsudaira, in the paper which he had handed to the Secretary of State, made the appointment of such a commission dependent on a negotiation of the Japanese five points, but Sir Eric Drummond thought that there was a possibility that the Japanese Delegation might waive that condition.

Sir Eric Drummond expected to receive this morning a reply from the Japanese Delegation, but he thought it would be of great advantage if the Secretary of State could also see Mr. Matsudaira as soon as possible and ask him whether the Japanese Delegation would be prepared to put forward this proposal for a commission of investigation as a separate concrete proposal.

Sir Eric Drummond hoped that if by any chance the Japanese Delegation would make the proposal, the Chinese Delegation might be induced to accept it. He suggested that if the reply from the Japanese was at all encouraging General Dawes should be asked to endeavour to induce the Chinese to accept it; the Chinese Delegation, he thought, were susceptible to the influence of General Dawes, and Dr. Sze had assured him that he would do everything possible to meet his wishes.

Should these conversations offer any prospect of success, Sir Eric Drummond suggested that the Secretary of State might ask to see M. Briand shortly before the Council meeting at 11 o'clock and inform him of what had passed and suggest that he (Sir John Simon) should report these developments to the Council.

A. CADOGAN

PARIS, November 17, 1931

After long conversations with Mr. Sugimura, who is acting on behalf of Mr. Matsudaira, I understand that the latter has reached the following conclusions, which he is presenting both to General Dawes and to Sir John Simon.

1. That the Japanese will propose that the League should send a Study Commission to examine the whole question of Sino-Japanese relations, and in particular, the relations of those two countries in Manchuria.

I knew of this proposal when I saw General Dawes this afternoon, and I asked him whether he thought that his Government would be willing to allow an American citizen to be nominated to serve on such a Commission. Of course he would be nominated by the League Council as an individual, but clearly we would take account of the desires of the American Government in making such a nomination.

General Dawes said that he had no authority from his Government to reply on such a point, but speaking personally he did not think there would be any difficulty.

2. As regards the withdrawal of the troops to the treaty zone, the Japanese Government would ask that, as security of the lives and property of their nationals was a preliminary condition to such withdrawal, immediate and direct negotiations should be entered into between Nanking and Tokyo on the five fundamental points.

I said that as regards the first four points, the President of the Council had already agreed in principle to recommend such negotiations, but the fifth point constituted the difficulty. Could Mr. Sugimura tell me to what treaties the fifth point referred?

Mr. Sugimura replied that there were three treaties: (1) the Treaty of 1915;² (2) a second Treaty relating to the protection of Koreans;³ (3) the 1905 Treaty and the Protocol attached thereto.⁴

I enquired whether the first two treaties had been duly signed and ratified, and Mr. Sugimura said that they had. I remarked that this being so, I thought there ought to be no difficulty in the Council's authorising negotiations on treaties the validity of which could not be called into question. But the 1905 Protocol was a different proposition. The validity of that I felt sure would be disputed by the Chinese Government.

Mr. Sugimura said that this was the most difficult point of all. Mr. Matsudaira stated that this Protocol was vital to Japan's interests in Manchuria, since these were mainly bound up in the Manchurian Railway. He did not really know how to get round this difficulty. Could I make any suggestions?

² See No. 406, note 1.

³ The reference would appear to be to the Chientao agreement of 1909: see No. 505, note 7.

⁴ See No. 505, note 4 and No. 728, note 2.

I said that there might be a way round of a technical character. If I remembered rightly, in one of the previous Japanese communications there was something to the effect that there should be a recommendation by the Council that negotiations should take place between the Manchurian Railway Administrations in order to avoid ruinous competition. This was a reasonable technical proposal, and I thought that it might be possible for the Council to consider it, while it might be very difficult for it to recognise the force of the 1905 Protocol.

Mr. Sugimura thanked me for this suggestion, and said that he would discuss it with Mr. Matsudaira. He added that if the negotiations on these five points as now defined were satisfactory, then the Japanese would be prepared to evacuate. I asked whether this would be done by arrangement between the Japanese and Nanking Governments, and he said that Mr. Matsudaira had assured him that it would be, because after all, the Nanking Government was recognised by Japan, and the Japanese Government could not treat with people whom Nanking considered to be traitors. I said that I heard this with great satisfaction, and I thought it would considerably ease the situation.

Mr. Sugimura remarked that if the negotiations on the fundamental points failed, then the Japanese Government would have to be guided by the state of security in Manchuria before the troops could be withdrawn, that is to say, that while the first would be *de jure* security, the second would be *de facto*.

He explained to me that Mr. Matsudaira was being extremely courageous in making these proposals. He would simply announce to Tokyo that he had put them forward to Sir John Simon and to General Dawes. If Tokyo refused to accept them, he would then resign, but his personal position was such that he did not believe Tokyo would take this step.

I asked Mr. Sugimura as to the wisdom of holding a public meeting. He was very emphatic that at the present stage such a public meeting could only do harm. There would be a speech by Mr. Yoshizawa and a reply by Dr. Sze. These would necessarily be violent, and no advantage could be gained, while if the proposals made now by Mr. Matsudaira could be embodied in a satisfactory formula, it would surely be much better that the Council should work on these rather than simply on a continuation of the present situation.

I told Mr. Sugimura that General Dawes, with whom I had talked, was equally emphatic that a public meeting would be useless, and that it would be much better to allow negotiations to continue with a view to having a practical settlement before such a public meeting took place. I said that while I thoroughly shared this view, yet I felt it might be very difficult to convince the Members of the Council of its correctness, unless some Member could really explain that there was a promising aspect of the situation. Perhaps this Member might be Sir John Simon, since Mr. Matsudaira was placing his suggestions before him. If so, I thought that what he said would carry great weight, particularly if he could add to it that he had had a talk with General Dawes, and that this was his view.

If the worst came to the worst, and a public meeting was forced on us, then I thought we should do all we could to limit the speeches to statements by Mr. Yoshizawa and Dr. Sze, and that there should be no discussion by the Members of the Council of the points at issue.

Mr. Sugimura said that he agreed, but he feared that even this would not make the position in Tokyo any easier.

No. 750

United Kingdom Delegate (Paris) to Foreign Office (Received November 19)

No. 142 [F 6724/1391/10]

PARIS, November 18, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copy of the record¹ of a private meeting of the Council of the League of Nations on November 18 respecting China and Japan.

ENCLOSURE IN No. 750

PARIS, November 18, 1931

The members of the Council, other than the Chinese and Japanese Delegates, met at the Quai d'Orsay this morning at 11.

M. Briand said that in the course of yesterday the Japanese Delegate had put up as a personal suggestion,² which had not yet received the approval of his Government, a proposal under three heads:—(1) negotiations to take place between the Chinese and Japanese Governments providing for the security of Japanese interests in Manchuria on the basis of the five Japanese demands; (2) a commission should be sent out by the League to visit China and Manchuria to make enquiries into the situation in all its aspects, including the present discrimination against Japanese trade in China; (3) the League should be kept informed of the progress of the Japanese-Chinese negotiations under (1).

M. Briand on being informed of these proposals had asked Mr. Yoshizawa at what point he contemplated that evacuation might take place. Mr. Yoshizawa replied that it would not be necessary to await the report of the League commission before the evacuation began. In fact the evacuation could take place simultaneously with the enquiries of the commission.

Sir John Simon said that events in Manchuria were taking place while the present discussions were in progress and the Council might be faced with serious developments before any tangible result had been reached in the

¹ This record was made by the British representatives for the use of His Majesty's Government.

² See No. 749, note 1.

discussions. Point (1) of the present Japanese proposal was open to the same criticism which he had made yesterday of the fifth Japanese demand, i.e. that the *desiderata* of the Japanese Government in the matter of the recognition of treaties remained vague and indefinite. He would also like to know whether points (1) and (2) were essentially interconnected, i.e. whether the Japanese Government demanded that point (1) should be accepted by the Chinese Government before it would consent to the despatch of the League commission suggested under point (2).

Sir Eric Drummond said that as a result of the discussion yesterday he had endeavoured to ascertain from the Japanese Delegation precisely what treaties they had in mind in their fifth demand. So far as he could discover, the treaties in question were three in number: (a) the Treaty of 1915 which included some, though not all, of the famous 21 demands made on China in that year, (b) a Treaty regarding the protection of Koreans which also included a clause providing for railway construction by the Japanese in Manchuria, (c) the Treaty and Protocol of 1905 which prohibited the construction by the Chinese Government of competing lines in Manchuria. So far as he gathered, the first two of these Treaties had been properly signed and ratified by the Chinese Government though the latter still asserted that they had been extracted under pressure. The position of the third Treaty was more obscure and he believed that the Chinese Government denied its validity altogether.

On the Chinese side it must be recollected that the Chinese Delegation had objected to the present text even of the first four Japanese demands regarding security, as they considered that it was drafted in a one-sided way. It was also important to remember that the Japanese Delegation insisted on direct negotiations between China and Japan.

M. Briand thought that it was important to have the attitude of the Chinese Delegation to the three Treaties mentioned by Sir Eric Drummond more precisely defined, since this seemed to be the whole essence of the fifth Japanese demand.

Sir Eric Drummond suggested that the Japanese and Chinese Delegates should be convoked separately and in turn in order to explain to the other members of the Council privately their views on this question of Treaties.

Sir John Simon said that he agreed with Sir Eric Drummond's suggestion. It might, however, be as well for the members of the Council to have in mind the question of the attitude which they should adopt in the event of it being found impossible to reconcile the Chinese and Japanese points of view. In his own opinion, there were in the last resort two possibilities open (a) that the Council should gradually whittle away its principles in the effort to bring about a settlement, or (b) that it should assert principles which were consonant with the provisions of the Covenant but which it might be unable to enforce. Of these two evils he preferred the latter, and thought that it would in the long run be less damaging to the prestige of the League.

M. Zaleski³ said that he agreed with Sir John Simon's remarks. The famous 'gap' in the Covenant, as at present drafted, foresaw the possibility that there might be certain occasions where the Council was unable under the Covenant to reach a solution at all.

Herr von Bülow⁴ suggested that perhaps the most urgent necessity at the present time was to put a stop to the fighting which was actually going on in Manchuria and arrange for what, in default of a better word, he would call an armistice. He was not opposed to the suggestion of a League commission being eventually sent to investigate but he thought that its powers would need to be definitely laid down. He also suggested that there was something to be said for the procedure under Article 15 as this would give the Council more time.

M. Briand argued that existing treaties made the position in Manchuria altogether exceptional. Not only did the Japanese Government own the South Manchurian Railway but it possessed and kept a force of 16,000 men there for the purpose of policing the line. It was obvious that in these conditions the present dispute could not be treated as an ordinary conflict between two equal and independent sovereign States. Something had been said about maintaining the principles of the Covenant. But he would point out that the Covenant contained not only Articles 11 and 15, but also Article 16, and if the procedure of the Covenant was to be applied in its entirety⁵ the last-named Article must also be thought of. He therefore felt that his colleagues would desire to reflect carefully on the implications of this Article before committing themselves too far.

After a few more general observations had been made by other members of the Council, it was decided to accept the proposal made by Sir Eric Drummond and to convoke the two Parties separately and in turn in the course of the afternoon.⁶

³ Polish Minister for Foreign Affairs.

⁴ State Secretary at the German Ministry of Foreign Affairs.

⁵ It was suggested in the Foreign Office that this word should read 'entirety'.

⁶ For a record of a further meeting of the Council of the League of Nations on November 18 see No. 788.

No. 751

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)
(Received November 19, 10.0 a.m.)

No. 12¹ Telegraphic [F 6755/1391/10]

TOKYO, November 19, 1931, 3.0 p.m.

My telegram No. 9.²

The Minister for Foreign Affairs gave positive assurance yesterday to the

¹ This telegram was addressed to Paris as No. 12 on November 19, and was repeated thence by bag to the Foreign Office, where it was received on November 20.

² Not printed. This telegram of November 19 stated: 'Tsitsihar was occupied last night,

United States Ambassador that Japanese troops would be withdrawn from the whole of North Manchuria with as little delay as possible. Vice-Chief of the General Staff left two days ago to see that orders were carried out.

Repeated to Nanking.

and it has been officially announced that no extra divisions will be sent from Japan.' Sir F. Lindley commented in his immediately following telegram: 'Belgian Ambassador is much alarmed at prospect of serious clash with Russia. I do not share this fear, and believe that Japanese will withdraw from Tsitsihar now they have crushed General Ma.'

No. 752

Mr. Campbell (Paris) to Sir M. Lampson (Nanking)

No. 1¹ Telegraphic [F 6749/1391/10]

PARIS, November 19, 1931

Following from Secretary of State.

Your telegram No. 319 to Foreign Office.²

In course of conversation with Mr. Sze yesterday I discussed the possibility of compromise on basis of formula contained in my immediately following telegram.³ I did not hand him copy of document nor did I definitely suggest that Chinese Government should put forward any such compromise. Mr. Sze promised to telegraph to his Government to ascertain their views.

Japanese delegate yesterday informed me that if five points could be satisfactorily disposed of they would propose League Commission to investigate the whole Sino-Japanese situation. I was informed from other sources that there was a possibility that Japanese might be induced to make this proposal separately and not conditional on the five points. It seemed to me that League might be made useful by undertaking to investigate the whole situation and I asked Mr. Matsudaira to ascertain whether his Government would be prepared to (? accept)⁴ this proposal. He tells me that he and Japanese Ambassador[s] in Paris and Rome have telegraphed to their Government recommending this solution.

Repeated to Foreign Office and Tokyo.

¹ This telegram was addressed to Nanking on November 19 as No. 1, and was repeated as No. 166 L.N. to the Foreign Office, where it was received at 3.30 p.m.

² No. 747.

³ No. 753.

⁴ The text is here uncertain.

No. 753

Mr. Campbell (Paris) to Sir M. Lampson (Nanking)

No. 2¹ Telegraphic [F 6752/1391/10]

PARIS, November 19, 1931

Following from Secretary of State:—

My immediately preceding telegram.²

Heads of suggested arrangement.

1. Nanking Government to give Japan solemn and formal assurance that Japanese treaty rights in Manchuria would be respected.

2. China to address note to Council of League (or query alternately to members of League represented on Council plus United States of America) undertaking to these Powers that China would strictly observe above undertaking.

3. A further term of arrangement indicated in paragraph one above would be that Nanking Government agree with Japan to set up at once a commission for the purpose of entering into working arrangement between South Manchurian Railway and Chinese Railways in Manchuria so as to put an end to unfair competition.

4. Japan to undertake to withdraw her troops within railway zone contemporaneously with above arrangements being entered into.

Repeated to Foreign Office and Tokyo.

¹ This telegram was addressed to Nanking as No. 2 on November 19, and was repeated as No. 167 L.N. to the Foreign Office, where it was received at 3.20 p.m.

² No. 752.

No. 754

United Kingdom Delegate (Paris) to Foreign Office (Received November 23)

No. 144 [F 6820/1391/10]

PARIS, November 19, 1931

The United Kingdom delegate to the League of Nations presents his compliments, and has the honour to transmit copies of a record of a private meeting of the Council on the 19th November, respecting China and Japan.

ENCLOSURE IN No. 754

Record of a Private Meeting of the Council on November 19, 1931¹

PARIS, November 19, 1931

The members of the Council, other than the Chinese and Japanese delegates, met at Quai d'Orsay this morning.

M. Briand, in an opening statement, observed that the meeting of the

¹ This record was made by Mr. Cadogan for the use of His Majesty's Government.

previous evening² had shown that the points of view of the two parties were so far removed that there was little hope of conciliation. It seemed, therefore, that under Article 11, which required the consent of all the members of the Council, there was little hope of arriving at any agreement. He mentioned, however, that he had been informed that there was some possibility that the Japanese Government might have a proposal to make for the appointment of a commission to investigate the whole Sino-Japanese situation. It was possible that by means of an enquiry by such a commission the League might be able to do useful work leading to an eventual settlement of the difficulties existing between China and Japan. If, however, a full enquiry were to be instituted into the situation, it would be necessary to take some step to prevent the continuance of bloodshed and to establish some kind of armistice if possible under the observation of League representatives.

Lord Cecil expressed the opinion that it would be necessary shortly to hold a public meeting at which the parties should make statements of their points of view. There had been no official statement as yet showing where the parties stood and the public were entitled to know exactly what the situation was. He hoped there might be a public meeting for this purpose the same afternoon. At any such meeting it would be necessary to explain to the public what were the Council's duties and limitations under Article 11 and why in the present instance it had proved impossible to reach any decision. If the Japanese Government were to make a proposal for a commission of enquiry, such as M. Briand had referred to, the Council would have to consider whether any good purpose would be served thereby and would have to ascertain whether the Chinese Government would be favourable to it.

Herr von Bülow asked the President whether he could give any indication of the attitude of the United States Government and whether any closer collaboration with the representative of the United States was possible.

M. Briand replied that General Dawes had not intended to take his seat at the Council table, but had declared that, if requested to do so, he would consider the possibility of complying. If the Council wished him to do so, he would sound General Dawes as to the possibility of his closer co-operation with the Council.

In reply to Lord Cecil, he suggested that it would be premature to hold a public meeting in the afternoon. The Japanese delegate had promised on the previous day to send a written communication confirming the statements which he had then made, but this had not yet been received. It might be possible to hold a public meeting on the following day. Meanwhile, he proposed that he should interview the parties; he would ascertain from the Japanese what prospect there was of their making a proposal for a commission of enquiry and he would impress upon them that, pending the commission's report, there must be no aggravation of the situation. If assurances could be obtained from both sides that they would refrain from further hostile action, that would be a great advance. If the proposal for a commission could be

² See No. 788.

realised, there might be great advantage in that the Council might, as it were, do by anticipation, what was foreseen in Article 15 of the Covenant without going outside the scope of Article 11. The Chinese delegate might be brought to see that it would in the end be to the advantage of his country to accept a full enquiry.

He proposed, therefore, that he should elicit from the Japanese delegate the intentions of his Government in regard to such an enquiry, and if the reply were favourable, he would seek to obtain their views on the possibility of establishing an armistice. If on this point, too, the reply were favourable, he would consult the Chinese delegate and endeavour to induce him to accept this arrangement. So far as he could see, the only alternative was the grave step of recognising publicly that the Council had failed under Article 11 to reach an agreement.

Herr von Bülow suggested that M. Briand, when speaking to the Chinese delegate, might urge him to abandon his idea of invoking Article 15 of the Covenant.

M. Briand replied that he did not believe that the Chinese delegate had any immediate intention of taking this step. It would only be taken in the last resort in the event of failure to secure satisfaction by any other means.

Lord Cecil said that he would regard with great anxiety anything that amounted to the grant of all that Japan had asked for and he begged the Council to consider the evil of such a step. He was anxious as to the possible consequences of the adoption of the procedure which the President had outlined. On arriving at the meeting he had been shown a press telegram from Tokyo to the effect that Japan would not be opposed to a League enquiry because Japan could afford to wait. Japan would have occupied practically the whole of Manchuria and would therefore be in a strong position. As regards the proposal for an armistice, he thought that this, in principle, was desirable, but he saw great difficulty in its practical application, as the Chinese Government had not full control over the irregular bands that infested Manchuria, which might at any moment provoke an incident. For his part, he would prefer not to decide on the final steps to be taken before there had been public statements of the respective attitudes of the two parties. He expressed the hope that no pressure would be put upon China to accept what in effect the Council had always condemned as being unjustifiable.

The President said that he quite understood Lord Cecil's point of view, but the Council had to face the facts. If the Council failed to reach a solution under Article 11 of the Covenant, it was clear—the Chinese delegate had said so—that an appeal would be made to them under Article 15. Lord Cecil had referred to the fact that pending an enquiry the Japanese would remain in occupation of Manchuria; that would be just as true, even if the enquiry were undertaken under Article 15 of the Covenant. The danger of Article 15 was that, once started on that path, the Council could not draw back.

He thought it better to adjourn for the moment any public meeting so long

as there was any prospect of a solution. If a public meeting were held, the battle would be joined at once and all hope of agreement would have to be abandoned. The strongest argument to use with the Chinese delegate would be to point out to him that under Article 15 the most that he could get in the first instance would be a League enquiry; if the Japanese would make the proposal which it was believed they might make, the enquiry would be obtained under Article 11 with the additional advantage of an armistice.

The Secretary-General said that there was one other argument in favour of an enquiry under Article 11 in that under Article 15 the report of the Council would have to be made within six months of the settlement of the dispute, which did not really afford sufficient time.

Lord Cecil said that he recognised the force of all that M. Briand had said. But what he had at the back of his mind was that in September the Council had made certain suggestions to the Japanese which the Japanese had accepted. They had agreed to evacuate as soon as possible subject only to assurances regarding Japanese lives and property. Now they had attached new conditions which had not been mentioned in September. He felt strongly that at some stage or another it ought to be made clear that the Japanese had not carried out their obligations. Otherwise the Council would be simply condoning the unjustifiable action of the Japanese Government. Provided that that were made clear, he would be quite prepared to accept a Japanese proposal for a commission of enquiry if it were made.

With regard to what the President had said about Article 15 and its ultimate consequences, Lord Cecil said that he had no preference for Article 15; his Government were never in favour of violent measures, though they would be prepared to co-operate in any course favoured by the other members of the League. But it did seem to them that Article 15 had this advantage, that acting under it the Council would not have to appear to condone the action of the Japanese Government.

After some further discussion, it was agreed to authorise the President to keep in touch with the parties in the manner which he had suggested and to report to the Council on the following day.³

A. CADOGAN

³ Lord Cecil briefly recapitulated the proceedings of this meeting in a letter (not printed) of November 19 to Sir J. Simon. In this letter Lord Cecil wrote further: 'Bülow spoke to me afterwards, evidently much moved by the danger of appearing to condone Japan's attitude and suggested that we might get them to agree to some kind of committee to supervise evacuation. I told him that I had very little hope of their agreeing to such a committee. Eric [Drummond] afterwards spoke to me and told me that he thought it extremely unlikely that the Chinese would agree to any committee except a committee of investigation under Article 15 and that he was quite willing to have such an investigation provided that we were not tied down to the time of six months, since it might well take longer than that. I confess I shall be relieved when we do set up a committee of investigation—whether under Article 15 or by agreement—because at any minute the Chinese may decide that it would suit them better to have an open state of war with Japan and to call upon us and other members to do our duty under Article 16—that would put us into an extremely difficult and dangerous position.'

Sir M. Lampson (Nanking) to Sir R. Vansittart
(Received November 20, 9.30 a.m.)

No. 323 Tour: Telegraphic [F 6759/1391/10]

NANKING, November 20, 1931, 10.20 p.m.

I and my American, French and German colleagues received an emergency summons from T. V. Soong late on November 19. He informed us on behalf of the President, occupied with party meetings, that he had a great announcement to make. Failure to act on two resolutions of the League Council and failure to meet China's recent request for neutral observers to be sent to Manchuria to prove on which side aggression lay had created a deplorable impression throughout the country. Chinese Government still believed that the attitude they had hitherto adopted was correct and they had not lost faith in the League. But occupation of Tsitsihar by Japanese troops had brought matters to climax. Party Congress had that day held a secret session and passed a resolution that in view of dislocation of all machinery of government in Manchuria brought about by recent events, President Chiang Kai-shek should proceed North as Commander-in-Chief as soon as possible 'to watch events'. This was a very fateful decision, and while the resolution had been carefully worded we should read between the lines and understand all its implications.

In reply to our enquiries he furnished following additional information. In face of national crisis all internal differences would be sunk. Nanking Party Congress had at the same time reached further decision to carry out to fullest extent agreement arrived at by Shanghai unification conference and in fact to accept all demands of Canton. Nanking and Canton party Congress would each elect twenty-four members for the new Central Executive Committee. Business of party Congress would probably take until about Monday¹ and the President would not leave till then. Enquiry established that there was thus still an interval of a few days before the President's departure. Peking would probably be his first destination. It was realised that war would be mad but if some action were not taken the Government would fall and Kuomintang be so discredited that existence not only of Government but also of the party was at stake.

Asked whether there was any special message for our respective Governments he said there was nothing to add to the above announcement.²

Repeated to Peking and Tokyo.

¹ November 23.

² This joint report is also printed in *Foreign Relations of the United States 1931*, vol. iii, p. 507.

No. 756

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received November 20, 10.0 a.m.)

No. 14¹ Telegraphic [F 6795/1391/10]

TOKYO, November 20, 1931, 1.35 p.m.

Your telegram No. 1 to Nanking² seems to offer solution which Japanese Government should accept but I am taking no steps to support it for fear of compromising its success by seeming to exert pressure.

In any case it seems important that some solution should be found before Council adjourns so that I hope it will be possible to avoid trying to define rights comprised in paragraph 1 more definitely. . . .³ will inevitably take much time. The military party are firmer in the saddle than ever and although I have never believed that any Japanese Government would encourage serious collision with Russia there is no doubt that military elements here begin to believe this a golden opportunity to secure control of whole of Manchuria and put an end to Russian menace thereto. This idea may spread though Military Attaché has heard nothing as yet to make him suspect that Japanese military action in the north has other object than crushing the forces of the Young Marshal.

Repeated to Nanking.

¹ This telegram was addressed to Paris on November 20 as No. 14, and was repeated thence unnumbered to the Foreign Office, where it was received on November 23.

² No. 752.

³ The text is here uncertain.

No. 757

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received November 20, 10.0 a.m.)

No. 15¹ Telegraphic [F 6794/1391/10]

TOKYO, November 20, 1931, 3.40 p.m.

My telegram No. 14.²

After consulting Captain Walters I venture to suggest that it would be well to consider possible modification of point four of your telegram No. 2 to Nanking.³ We do not believe Japanese Government will consent to anything like a fixed date for evacuation.

Repeated to Nanking.

¹ This telegram was addressed to Paris on November 20 as No. 15, and was repeated thence unnumbered to the Foreign Office, where it was received on November 23.

² No. 756.

³ No. 753.

Lord Tyrrell (Paris) to Sir M. Lampson (Nanking)

No. 4¹ Telegraphic [F 6803/1391/10]

PARIS, November 20, 1931

Following from Mr. Cadogan.

At private meeting of Council this evening M. Briand said he had interviewed Japanese and Chinese delegates.

Former was willing to propose Commission of Enquiry, but his Government would like it to cover not only Sino-Japanese relations but whole situation in China. M. Briand told them that was beyond the scope of our discussions and he gathered Japanese Government might not insist on such wide extension of terms of reference. Further, Japanese Government laid down condition that Commission should not intervene in direct negotiations and should not interfere with movements of troops. Japanese delegate would be prepared to give assurance regarding cessation of hostilities. Japanese troops would be withdrawn as conditions of security allowed.

Chinese delegate whom M. Briand had interviewed before the exact nature of above Japanese conditions had been made known had adopted what seemed conciliatory attitude but had reiterated with some force that China would not purchase evacuation of her territory at price of re-affirmation of treaties which she did not recognise as valid.

M. Briand agreed, in reply to question by Lord Cecil, that Council should endeavour to arrange for presence of observers to verify suspension of hostilities.

It was further agreed that Council could not pass over in silence failure of Japan to carry out undertakings given in September and introduction of new conditions. Council should reaffirm attitude taken up in September.

Terms of reference of Commission would have to be carefully elaborated: it would be necessary to provide that they should remain on the spot for a considerable period, and it was hoped that presence of Commission might itself contribute to restoration of order rendering progressive evacuation possible.

Council will meet in public tomorrow afternoon,² when Japanese delegate will make statement and propose appointment of Commission. Chinese delegate will reply, and discussion will be opened.

Proceedings will have to be continued on Monday.³

(To Nanking) Please repeat to Tokyo.

¹ This telegram was addressed to Nanking on November 20 as No. 4, and was repeated as No. 169 L.N. to the Foreign Office, where it was received on November 23.

² For the proceedings of the Council on November 21 see *League of Nations Official Journal*, December 1931, pp. 2364-71.

³ November 23.

No. 759

Sir M. Lampson (Nanking) to Sir J. Simon¹

(Received November 24, 10.0 a.m.)

No. 328 Tour: Telegraphic [F 6855/1391/10]

NANKING, November 21, 1931, 10.40 a.m.

My telegram No. 326.²

Rajchman tells me this afternoon United States Minister visited Acting Minister for Foreign Affairs and told him that United States Government believed that the moment had come for more drastic policy than that of the Council: that they proposed taking it but he could not specify what it would be.

2. United States Minister has so far said nothing to me on this though I saw him this morning as usual when we all met to discuss the latest situation.

3. Rajchman hinted that above information might be helpful to Walters in Tokyo. I discouraged him but decided to let His Majesty's Ambassador in Tokyo know so that he could act at his discretion.³

Repeated to Tokyo and Peking.

¹ This telegram was addressed to the Foreign Office through Paris.

² No. 762.

³ Sir F. Lindley stated in his telegram No. 20 to Paris of November 22:

'Sir M. Lampson's telegram No. 328.

'I am showing all relevant telegrams to Captain Walters.

'Minister for Foreign Affairs complained to me yesterday in most bitter terms of Rajchman who was spending a fortune on telegrams and behaving in a manner highly unbecoming to a League official. I gained the impression that he might lodge an official complaint.'

No. 760

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received November 21, 10.30 a.m.)

No. 18¹ Telegraphic [F 6786/1391/10]

TOKYO, November 21, 1931, 3.45 p.m.

My immediately preceding telegram.²

I received impression that Minister for Foreign Affairs was confident he could . . .³ attack on Chinchow unless position there was altered by concentration of troops or real aggression by Chinese troops already there.

Past experience shows that confidence may be misplaced.

¹ This telegram was addressed to Paris as No. 18 on November 21, and was repeated thence unnumbered to the Foreign Office, where it was received on November 23.

² No. 761. These telegrams were despatched out of order.

³ The text is here uncertain.

I received further impression that Japanese will not tolerate any attempt of Chiang to exercise authority in Manchuria or any concentration of Chinese troops under him round Peking.

I feel certain that Japanese Government have no fear of complications with Russia.

Repeated to Nanking.

No. 761

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received November 21, 11.30 a.m.)

No. 17¹ Telegraphic [F 6797/1391/10]

TOKYO, November 21, 1931, 4.20 p.m.

Sir M. Lampson's telegram No. 323 to Foreign Office.²

Minister for Foreign Affairs informed me this morning that Japanese Government would be quite willing to negotiate with Chiang Kai-shek at Peking or elsewhere if he wished. It was a mistake to suppose that they expected more from Canton than from Nanking. Position would be altered if Chiang Kai-shek collected troops and prepared to enter Manchuria.

Minister for Foreign Affairs stated positively that Japanese Government had no intention of attacking Chinchow. But if there were further concentration of troops there under Chiang or anyone else this might well constitute a menace to Japanese forces in Manchuria and necessitate change in present plans.

Japanese Government were as determined as ever to confine conflict to four eastern provinces but he was much disturbed by bad faith and provocative attitude of Chinese round Tientsin. If these tactics were continued by Chiang it is impossible to say what might be necessary to defend Japanese rights. I insisted on absolute necessity for not allowing trouble to spread beyond the Wall.

Minister for Foreign Affairs expressed absolute confidence that there was not the slightest risk of conflict with Russia.

Repeated to Nanking.

¹ This telegram was addressed to Paris as No. 17 on November 21, and was repeated thence unnumbered to the Foreign Office, where it was received on November 23.

² No. 755.

No. 762

Sir M. Lampson (Nanking) to Sir J. Simon¹

(Received November 24, 10.0 a.m.)

No. 326 Tour: Telegraphic [F 6853/1391/10]

NANKING, November 21, 1931, 7.46 p.m.

Rajchman has seen me urgently to say that Sze telegraphed to Minister of Finance that Americans in Paris (including General Dawes though he did not say so) are saying that M. Briand (i.e. Council) is working for special armistice and appointment of League Commission of Enquiry whereas America would have been ready to go much further. Rajchman said I could realise effect which such a message was necessarily having upon Chinese just at this moment when they were already in a state of desperation. He had wired full report to Sir E. Drummond suggesting that Lord Cecil be informed.

2. I said report was so astonishing as to be hardly credible. But if true it would obviously tend to stiffen China and further aggravate dangerous moment just when we were beginning to hope things looked a little better.

3. I always accepted what comes from Rajchman with reserve knowing how ardently pro-League he is. But on present occasion he did not give any impression of exaggerating purport of Sze's telegram regarding alleged American statement.

Repeated to Peking and Tokyo.

¹ This telegram was addressed to the Foreign Office through Paris.

No. 763

Sir M. Lampson (Nanking) to Sir R. Vansittart

(Received November 22, 9.30 a.m.)

No. 329 Tour: Telegraphic [F 6801/1391/10]

NANKING, November 22, 1931, 2.16 p.m.

Following from Boothby. Begins:—

The reduction in earnings of Peking-Mukden railway caused by Japanese action on the line has made it very difficult to meet payment of monthly loan service and quite impossible to pay double track loan instalments.¹ Payment of latter has generally been met by remittance to Tientsin from Mukden banks where extra-mural earnings have been deposited. I appealed to the Japanese authorities in Mukden to allow railway to draw upon their Mukden bank deposits especially to meet payment obligations for which reduced

¹ In 1921 the British and Chinese Corporation had supplied a loan of \$2 million and £500,000 to the Peking-Mukden Railway for building a double track line between Tongshan and Shanhaikwan.

earnings were insufficient and there does not appear to be any justification for Japanese embargo upon these funds.

We shall be very grateful for your support in this matter. Ends.

I am instructing His Majesty's Consul General at Mukden to make suitable representations to his Japanese colleague to secure release of these funds making plain that he is acting on my instructions in the interest of British and Chinese Corporation.

Repeated to Tokyo, Peking and Mukden.

No. 764

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received November 22, 10.0 a.m.)

No. 19¹ Telegraphic [F 6851/1391/10]

TOKYO, November 22, 1931, 2.21 p.m.

My telegram No. 222 to Foreign Office.²

American, French, Argentine, Polish and British Military Attachés left for Manchuria last night. Russian though invited did not go. Italian Counsellor also went on Italian initiative in the absence of Military Attaché.

Repeated to Nanking.

¹ This telegram was addressed to Paris as No. 19 on November 22, and was repeated thence unnumbered to the Foreign Office, where it was received on November 24.

² Not printed. This telegram of November 12 reported that Sir F. Lindley had instructed Colonel Simson to accept the invitation extended by the Japanese Government to the Military Attachés to visit Manchuria for a fortnight.

No. 765

Sir M. Lampson (Nanking) to Sir J. Simon¹

(Received November 24, 10.0 a.m.)

No. 332 Tour: Telegraphic [F 6858/1391/10]

NANKING, November 22, 1931, 4.40 p.m.

The following information was furnished to me confidentially by my United States colleague late on November 21, after he had seen Dr. Koo.

2. According to Dr. Koo the Council's proposal for League Commission etc. which was reported to be acceptable to Japanese was unacceptable to China as being too vague and not providing for evacuation. Chinese Government would put forward counter proposal which, subject to approval of Foreign Affairs Committee, would be as follows:—

(1) Immediate cessation of hostilities.

¹ This telegram was addressed to the Foreign Office through Paris.

- (2) Evacuation by fixed period.
- (3) China to assure security of Japanese lives and property.
- (4) Commission of neutral observers to supervise evacuation etc.
- (5) China and Japan to re-affirm principle of respect for treaty obligations including Covenant, Kellogg Pact and Washington Treaty.
- (6) Immediate Chinese and Japanese discussions in the presence of neutral observers regarding evacuation and transfer and measures to safeguard Japanese lives and property.
- (7) Outstanding Chinese-Japanese questions relating to Manchuria to be determined by Conference to be jointly convened by America and League of Nations with the following principles as a basis:
 - (a) Safeguarding of peace in the Far East.
 - (b) Economic development of Manchuria through international co-operation.
 - (c) Removal of causes of friction between China and Japan.

3. Dr. Koo begged that above might be treated as confidential but at the same time he specifically requested that it might be telegraphed to Washington to obtain their reaction.

4. In reply to United States Minister's request for my opinion I said I thought China should hesitate before turning down League of Nations' proposal and thus risk placing herself at serious tactical disadvantage. United States Minister concurred and said he argued strongly with Dr. Koo in this sense.

No. 766

Lord Tyrrell (Paris) to Sir R. Lindsay (Washington)

No. 2¹ Telegraphic [F 6827/1391/10]

PARIS, November 22, 1931

Following from Secretary of State.

Reports from Chinese sources allege that United States Minister at Nanking is giving Chinese Government to believe that United States Government would be prepared to go further than Council.² General Dawes is being of great assistance here behind the scenes in bringing parties together but any such belief however unfounded is necessarily calculated to counteract his efforts and would reduce chances of settlement now envisaged.

Please bring above to Mr. Stimson's notice.

Repeated to Nanking and Foreign Office.

¹ This telegram was addressed to Washington as No. 2 on November 22, and was repeated on November 23 as No. 173 L.N. to the Foreign Office, where it was received at 9.30 a.m.

² See No. 759.

No. 767

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received November 23, 10.30 a.m.)

No. 21¹ Telegraphic [F 6852/1391/10]

TOKYO, November 23, 1931, 12.52 p.m.

Sir M. Lampson's telegram No. 332.²

These proposals will never be accepted by Japanese Government.

Position remains as it has been from the beginning that the Japanese Government will not accept fixed date for evacuation, will insist on negotiations with China alone and will resist any League sanctions even if resistance ruins the country.

I submit that the sooner all concerned realise above the better for China.

Repeated to Nanking.

¹ This telegram was addressed to Paris as No. 21 on November 23, and was repeated thence unnumbered to the Foreign Office, where it was received on November 24.

² No. 765.

No. 768

Sir R. Vansittart to Sir F. Lindley (Tokyo)

No. 156 Telegraphic [F 6801/1391/10]

FOREIGN OFFICE, November 23, 1931, 4.45 p.m.

Nanking telegram No. 329.¹

If this local action fails please request Japanese Government to remove embargo. Money is definitely due to Corporation and as railway is ready to pay is virtually British property.

Repeated to Nanking.

¹ No. 763.

No. 769

*Memorandum by the Secretary of State for Foreign Affairs
respecting Manchuria¹*

[F 6862/1391/10]

PARIS, November 23, 1931

The Council of the League of Nations is still discussing this question without securing as yet any accommodation between China and Japan. While M. Briand, who presides, is hopeful of a happy issue from the proposal for a Commission which he is now putting before the contending parties, it is

¹ This memorandum was prepared for circulation to the Cabinet.

useless to shut one's eyes to the fact that even if the proposed Resolution establishing a Commission of Enquiry was agreed upon, this would be for the Council of the League a very imperfect success. I am, however, still more concerned with the alternative which will arise if it becomes evident, as I fear it may, that even this degree of success is impossible and a complete deadlock results. The decision then to be taken by the Council of the League will necessarily have a most material influence upon its future as an effective international instrument for restraining military action and securing peaceful settlements. Moreover, the part played by the British Representative in the final stage of the discussions has a material bearing on British relations with Japan and China, and the whole incident may re-act prejudicially upon the Disarmament Conference.

In reaching its decision on these matters, so far as British policy and action is concerned, the Cabinet will wish to have before it a summary of what has happened.

There has been an unsolved Sino-Japanese problem in Manchuria for over twenty years—ever since the Japanese succeeded to Russian rights in that region after the Russo-Japanese war. The Chinese have never willingly accepted the Japanese position in Manchuria. In recent years their resistance—for the most part passive—has taken on a more active character. There have been frequent incidents and great friction eventually culminating in the affair of September 18th last. The Japanese military force guarding the zone of the South Manchurian Railway, alleging an attack by Chinese troops on the railway line just north of Mukden, carried out what was evidently a carefully prepared *coup* and proceeded to execute an equally carefully prepared programme. They seized simultaneously a number of widely separated points in Manchuria and proceeded systematically to drive out the Chinese authorities and establish their own authorities instead. On September 21st China appealed to the Council of the League, then in session at Geneva, under Article 11 of the Covenant. On September 30th the Council adopted unanimously a Resolution in which it took note of the Japanese representative's statement that his Government would continue as rapidly as possible the withdrawal of its troops, which had already been begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals was effectively assured and that his Government hoped to carry out this intention in full as speedily as may be. The Japanese Government, however, failed to carry out the assurances given to the Council which therefore met again at Geneva from October 13th–24th. The Japanese representative now adopted the attitude that a preliminary agreement, binding China to recognise Japan's treaty rights in Manchuria, was an essential element of security and must be a condition precedent to evacuation. The other members of the Council on the other hand maintained that evacuation must be a condition precedent to the negotiations for a settlement of the questions in dispute between the parties. On October the 24th, therefore, the Council adopted a draft Resolution by 13 votes to 1 (the

² See No. 770, enclosure 2.

Japanese alone voting against) calling upon Japan to evacuate within three weeks, namely by November 16th, the date fixed for the next meeting of the Council. Owing to the want of unanimity, this resolution had no juristic effect. Japanese military operations in execution of the programme above described have continued during this session of the Council as during the last. The Japanese representative has been persuaded to propose that a League Commission should visit Manchuria and China, but it is very doubtful whether agreement can be reached as to the terms of reference of this Commission. The Chinese delegate has indicated that he does not reject, in principle, the suggestion of a Commission, but that its appointment should not furnish a pretext for delay in Japanese evacuation. If the appointment of such a Commission could be secured by general consent of the members of the Council, it would undoubtedly be able to supply much useful information on points which are at present obscure or disputed between the contesting parties.

There is a wide-spread feeling, which I believe to be justified, that although Japan has undoubtedly acted in a way contrary to the principles of the Covenant by taking the law into her own hands, she has a real grievance against China and the merits of the matter are complicated by a further consideration. This is not a case in which the armed forces of one country have crossed the frontiers of another in circumstances where they had no previous right to be on the other's soil. Japan owns the South Manchurian Railway and has been entitled throughout to have a body of Japanese guards upon the strip of land through which the railway runs. Japan's case is that, having her armed guards lawfully there, she was compelled by the failure of China to provide reasonable protection for Japanese lives and property in Manchuria in the face of attacks of Chinese bandits, and of an attack upon the line itself, to move Japanese forces forward and to occupy points in Manchuria which are beyond the line of the railway. This has grown by degrees into what is in effect an organised occupation, leading in its turn to serious fighting and bombing. But Japan continues to insist that she has no territorial ambitions in Manchuria—an expression, it will be observed, which does not necessarily imply that she is not thinking of some sort of protectorate, at any rate in Southern Manchuria. In spite of Japan's protests to the contrary, there can of course be no real doubt that she is pursuing the course of putting pressure on China by means of this occupation for the purpose of securing that the Japanese claims against China in that region may be met, e.g. the stopping of cut-throat competition with the South Manchurian Railway, which Japan asserts is already promised to her by a Protocol of 1905 and the reaffirmation by China of the rights which Japan claims to have secured by a Treaty of 1915.

It is necessary to consider beforehand the various alternative situations with which we may very shortly be confronted and to form conclusions as to the possible action to be taken.

1. In the event of a partial success, i.e. acceptance of the Resolution which has been put before the parties.

In this case the Council will have agreed to the despatch of a Commission of Enquiry which may ultimately produce very valuable results. But that Commission could not report for eight or nine months at the earliest, and meanwhile we have no assurance that the Japanese will evacuate the territory which they have occupied, beyond the declaration that the Japanese Government are ready to do so directly certain conditions have been satisfied. Unfortunately now that we know the real meaning of those conditions we must realise that there is no immediate prospect of their fulfilment.

Therefore the Council will have failed in its immediate object of putting an end to Japanese occupation of Chinese territory. It will have to look on while its own summons is ignored. It will have to realise that it has failed to enforce the fundamental principle that a State may not, without prior recourse to the recognised means of peaceful settlement, take the law into its own hands.

The Council would be unwise if it attempted to ignore these facts. It would seem to be far better, even if the Resolution is adopted, that the Council should in some manner reaffirm the above principle, even though in this particular case it has been powerless to apply it effectively. That would be an honest confession of weakness on the part of the Council, but that would be better than a cynical abandonment of the fundamental principle, upon which it has been attempting to build during these last 12 years an organisation for the preservation of peace.

Any such declaration would evidently come best from the President himself. Other members of the Council might endorse it and add any observations which they might see fit to offer.

But the question arises, if the President is not prepared to make any sufficiently strong declaration on this head and if there is no other way of achieving it, whether the British Delegate should take the lead in doing so.

It is obvious that by taking the lead in this matter we should offend the Japanese Government.

Here we have got to weigh the disadvantages against each other. On the one hand the immediate disadvantage to ourselves in losing favour with Japan; and on the other hand the general risk, in which we share, is that the League, in refusing to reaffirm its true function, will lose so much respect as may yet be accorded to it in the face of its failure to enforce its demands upon the parties.

2. In the event of failure to secure the adoption of the Resolution now under discussion, it is difficult to see how the Council during its present session, at least, could attempt to seek a solution in any other direction.

Assuming that to be so, it would appear that the Council could do no more than it did on October 24th, namely, to reaffirm its Resolution of September 30 and place again on formal record its view as to the obligations on both parties.

This of course would be a confession of complete failure, not veiled even by the despatch of a Commission of Enquiry to the Far East.

It may well be that the Chinese Delegate will put into effect the threat

which he has often uttered, and appeal to the Council under Article 15 of the Covenant.

Under that Article the Council must make an investigation and could decide, independently of the parties, to send out a Commission of Enquiry. It has hitherto been desired to avoid the application of Article 15 on the ground that it introduces a more menacing atmosphere. In fact, it seems difficult to see how the position is in that respect changed. Indeed, it might give a respite of six to nine months during which passion may cool. But M. Briand's own conversations with me show that he is personally anxious to keep all discussion within Article 11.

J. S.

No. 770

United Kingdom Delegate (Paris) to Foreign Office (Received November 24)

No. 146 [F 6861/1391/10]

PARIS, November 23, 1931

The United Kingdom delegate to the League of Nations presents his compliments, and has the honour to transmit copies of the record of a private meeting of the Council, on the 23rd November, respecting China and Japan.

ENCLOSURE I IN NO. 770

Record of a Private Meeting of the Council on November 23¹

November 23, 1931

The members of the Council, other than the Chinese and Japanese delegates, held a private meeting this morning at which the enclosed draft resolution was circulated for consideration.

The Secretary-General explained that this draft resolution had not been shown to the Japanese delegation, but that he had had some conversations with them on point 5. The text now submitted had not been accepted by them, but represented what he hoped might be accepted if they were pressed.

M. de Madariaga said that he felt some difficulty about a resolution which excluded from the powers of the commission the question of the evacuation, which was, after all, the principal point which the Council had met to consider. Even the Japanese counter-proposal of the 23rd October, as well as the draft resolution of the 24th October, contained a proposal that the Chinese and Japanese Governments should appoint negotiators to examine the conditions in which evacuation should take place.

M. Briand and Sir John Simon pointed out to M. de Madariaga that the object of the draft resolution was to keep perfectly distinct the question of

¹ This record was made by the British representatives for the use of His Majesty's Government.

evacuation and the question of the appointment of a commission. If they were linked up, it would mean that evacuation would be delayed until the commission appeared on the spot to examine conditions.

Sir John Simon proposed that, in order to make the matter quite clear and to meet the objection that no mention of evacuation was made, some words should be added at the end of paragraph 5 of the resolution to the effect that 'the deliberations of the commission should not be regarded as any ground for delaying evacuation'.

M. Colban said that he thought the members of the Council ought to be in possession of the observations of the Chinese delegate before the resolution was communicated to the Japanese delegation. He did not like the idea of committing the Council to the acceptance of the principles of the draft resolution, which might very probably prove totally unacceptable to the Chinese delegation.

M. Briand said that it was quite understood that the draft resolution would be handed to the Chinese delegation, not as a proposal of the Council, but as a 'mise au point' of the Japanese proposal made at the public session on the 21st November. It would be made clear to the Chinese delegation that it had not been accepted by the other members of the Council and was merely a draft put up for purposes of discussion.

The Secretary-General said that he thought the draft resolution must be shown to the Japanese delegation at the same time as to the Chinese delegation, but it would be made clear to both parties that the Council were in no way committed to it.

Sir John Simon asked when M. Briand proposed to convoke another public meeting. M. Briand said that there would be material for a public meeting so soon as the formal views of the Japanese and Chinese delegations on the draft resolution were forthcoming. He was confident in any case that the Council must dispose of the matter in some way, whether there was agreement or not, in the course of the present week.

ENCLOSURE 2 IN NO. 770

Draft Resolution

November 22, 1931

The Council recalls and reaffirms the resolution passed unanimously by it on the 30th September, by which the two parties declare that they are solemnly bound. It therefore calls upon the Chinese and Japanese Governments to take all steps necessary to assure its execution, so that the withdrawal of the Japanese troops within the railway zone—a point to which the Council attaches the utmost importance—may be effected as speedily as possible.

2. Considering that events in Manchuria have assumed an even more

serious aspect since the Council meeting of the 24th October, calls upon the two Governments—

- (a) To give the strictest orders to the commanders of their respective forces to refrain from any initiative which may lead to further fighting and loss of life.
- (b) To take all measures necessary to avoid any further aggravation of the situation.

3. Invites the two parties to continue to keep the Council, which remains seized of the question, informed as to the development of the situation.

4. Invites the other members of the Council to furnish the Council with information received from their representatives on the spot.

5. Desiring, on the other hand, in view of the special circumstances of the case, to contribute towards a definitive and fundamental solution of the questions at issue between the two Governments,

Decides to appoint a commission of three members to study on the spot and to report to the Council on any circumstance which, affecting international relations, threatens to disturb peace between China and Japan, or the good understanding between them, upon which peace depends.

The Governments of China and of Japan will each have the right to nominate one assessor to the commission. It is understood that should the two parties initiate any negotiations these will not fall within the scope of the terms of reference of the commission, nor will the commission supervise the movements of the military forces of either party.

N.B.—The President, after the adoption of the resolution, will state:—

- (a) That each of the two Governments will have the right to indicate to the chairman of the commission any question the examination of which it particularly desires.
- (b) That the commission may, should it so desire, furnish the Council with interim reports.

No. 771

Sir M. Lampson (Nanking) to Sir J. Simon¹

(Received November 25, 12.10 p.m.)

No. 334 Tour: Telegraphic [F 6880/1391/10]

NANKING, November 24, 1931, 12.20 a.m.

My telegram No. 332.²

Koo informed my United States colleague on November 22 that Chinese counter-draft had been adopted by Foreign Affairs Committee and was being telegraphed to Chinese delegate to Geneva [*sic*] with instructions to furnish

¹ This telegram was addressed to the Foreign Office through Paris.

² No. 765.

copy to Dawes. Period of evacuation under point 2 is set at two weeks. According to Koo draft will be accompanied by statement indicating that while China is of opinion that the League should apply sanctions allowed for in Article 16 of the Covenant she knows Council's natural hesitation to pursue this course and does not at present wish to insist on it until every chance of peaceful settlement has been exhausted; in this spirit of conciliation China offers her counter-proposal.

Repeated to Tokyo and Peking.

No. 772

Sir M. Lampson (Nanking) to Sir J. Simon¹
(Received November 25, 12.10 p.m.)

No. 337 Tour: Telegraphic [F 6883/1391/10]

NANKING, November 24, 1931, 3.40 a.m.

Wellington Koo gave me today the same heads of Chinese counter-proposal which were telegraphed to Sze last night.²

2. It was considered by Foreign Affairs Committee the minimum to meet existing situation and provide basis for 'something for the future that will afford a permanent solution'.

If it failed China would have to invoke Article 16 of the Covenant not in the interests of China alone but of the whole world. He admitted that if proposed commission of enquiry were accompanied by cessation of hostilities and evacuation within a fixed period it 'might serve as a basis for consideration'.

The League should stand on draft resolution of October 24 rather than side-track question of Japanese occupation. Either Japan was right or wrong; and on that the League were on record (*sic*). If Council's view was correct on September 30 and October 24 it was more than ever so now.

3. I pointed out danger of turning down proposed commission of enquiry which might well prove most useful in numerous ways. Moreover China might find herself accused of turning down compromise sponsored by the Council and see world opinion turn against her. But he would not admit that the proposed compromise was reasonable on grounds which he elaborated and which Foreign Affairs Committee had instructed Sze to expound to the Council.

Repeated to Tokyo and Peking.

¹ This telegram was addressed to the Foreign Office through Paris.

² i.e. the night of November 22. For this Chinese proposal see *Foreign Relations of the United States 1931*, vol. iii, p. 533.

No. 773

Letter from Sir E. Drummond (Paris) to Sir J. Simon

[*Confidential/General/349/1*]

LEAGUE OF NATIONS, PARIS, *November 24, 1931*

My dear Foreign Secretary,

During our recent talks on possible developments of this unhappy situation, I have of course based the views I have expressed to you on the assumption which you explained to me when you first came to Paris, that the British Government were not willing to take any sanctions whatever against Japan. In these circumstances, of course, there is a very severe limitation on what is possible as regards League action.

The news this morning from Manchuria is a little better, and Baron Shidehara has got a definite assurance from the Chief of the Japanese Staff and from the Minister of War that it is not their intention to attack Chinchow, and they have informed the three Japanese Ambassadors here that this is the case. At the same time he adds—and this is somewhat disquieting—that the Manchurian Army must be free to take any measures of self-defence they think necessary.

Believe me, &c.,
ERIC DRUMMOND

No. 774

Lord Tyrrell (Paris) to Sir J. Simon (Received November 25, 12.0 noon)

No. 174 L.N. Telegraphic: by telephone [F 6879/1391/10]

PARIS, *November 25, 1931*

The following from Lord Cecil.

It is contemplated that there will be a public meeting of the Council sometime tomorrow, Thursday.

At that meeting the draft resolution would be formally tabled, and the two parties would probably indicate generally their attitude towards it. Japanese Delegation have practically accepted it.

Chinese Delegation received instructions yesterday, exact nature of which is not known: it is understood the Chinese Delegate has asked for further instructions which he might obtain by tomorrow.

It is not likely that a meeting tomorrow would conclude the discussion, and there would almost certainly have to be a meeting on Friday, which would probably be the final one.

Japanese Delegate has expressed anxiety about the situation near Chinchow. He says Chinese troops are massing in neighbourhood outside the town, and that bodies of bandits are co-operating. This involves risk of clash at any moment. If Chinese could be induced to concentrate in Chinchow itself, it might be possible to avert clash. If this could be arranged it would be necessary to have as many neutral observers as possible on the spot.

Chinese Delegate spoke to me last night about the situation. Under the impression that Japanese might demand Chinese withdrawal south of Chinchow, he said this would be impossible unless neutral troops could be brought in to Chinchow area. I do not know whether it is possible to contemplate any such arrangement if event arises. Possibly it might be worth while to ask Japanese opinion on the subject. May I urge that strongest possible representations should be made at Tokyo that another incident at Chinchow such as that of Tsitsihar would make position almost insoluble on present lines.

Not repeated to Nanking and Tokyo.

No. 775

Sir J. Simon to Lord Tyrrell (Paris)

No. 314 Telegraphic [F 6938/1391/10]

FOREIGN OFFICE, *November 25, 1931, 2.40 p.m.*

Following for Lord Cecil from Secretary of State begins:

Cabinet is opposed to British Representative taking up a special and separate attitude in public session on the ground that it would not be effective and would only cause further heartburnings. It considers that an adequate statement should be made on behalf of whole Council by President. We must therefore concentrate on getting Drummond to prepare draft for Briand in best form in event of sittings being closed on Friday.¹ For this purpose would not Drummond take steps to secure that his proposed draft as put before Briand is reinforced by other representatives besides ourselves? Drummond will know how best to deal with such representatives as would assist in this view.

I may find it extremely difficult to get over for Friday as purpose of my return here cannot be disposed of today and is now to be specially considered on Friday morning. But I will keep myself available in every way possible.

¹ November 27.

No. 776

Sir J. Simon to Sir F. Lindley (Tokyo) and Sir M. Lampson (Nanking)

No. 158¹ Telegraphic [F 6879/1391/10]

FOREIGN OFFICE, *November 25, 1931, 4.30 p.m.*

Paris telegram No. 174.²

Unless you see objection please represent urgently and emphatically to the Government to which you are accredited absolute necessity of refraining

¹ No. 158 to Tokyo and No. 157 Tour to Nanking.

² No. 774 was repeated to Tokyo and Nanking by the Foreign Office.

from any act likely to jeopardise peaceful solution which may very soon result from Council's efforts.³

³ Lord Tyrrell was informed of these instructions to Tokyo and Nanking in Foreign Office telegram No. 315 of November 25.

No. 777

Sir M. Lampson (Nanking) to Sir J. Simon¹ (Received November 27)

No. 341 Tour: Telegraphic [F 6991/1391/10]

NANKING, November 25, 1931, 8.0 p.m.

Wellington Koo was appointed Acting Minister for Foreign Affairs by mandate on November 23.

2. Chiang Kai-shek is expected to leave shortly for the North. Chinese press stated that he will visit Kaifeng and Tsinanfu on the way to Peking. It is understood that Yu Yu-jen² assisted by Soong will be in charge of the Government during his absence. Hu Han-min and Wang Ching-wei who are in Shanghai are said to have been coming to Nanking to participate in the Government but to have so far refused.

3. Preparations are on foot for heavy troop movements up Tientsin-Pukow railway said to be for transportation of Nanking forces to Hsuechow and Honan. Chen Ming-shu assumed his post as Commander of Nanking-Shanghai garrison areas on November 22. Bulk of his 19th route army have reached their stations including Nanking.

4. Nanking Party Congress which met on November 12 dissolved on November 23 after completing their task of endorsing the Government's policy and demanding strong action *vis-à-vis* Japan and electing new members of Central executive and appointing committees in accordance with understanding with Canton where southern part of Congress is to do the same with the object of creating unified party organ which will reorganise the Government. Nanking Party Congress also passed resolution restoring to part³ membership various political leaders expelled in the past including Wang Ching-wei, Kuangsi leaders and Feng Yu-hsiang and Yen Hsi-shan.

5. My impression, which I give with all reserve, is that except for extremist part,³ differences with Canton may be on the way to adjustment. As regards the north situation is precarious. Destruction of Chang Hsueh-liang's power by the Japanese has left Han Fu-chu in doubtful position and Yen Hsi-shan and Feng Yu-hsiang free to emerge again. Concentration of Chiang Kai-shek's troops in Honan is significant. But some sort of nominal peace and unity are likely to be maintained in face of Japanese aggression.

Repeated to Peking, Commander-in-Chief, General Officer Commanding, Hong Kong, Canton, Shanghai, Hankow and Tokyo.

¹ This telegram was addressed to the Foreign Office through Paris.

² President of the Control Yuan.

³ In another text this word read: 'party'.

No. 778

Lord Tyrrell (Paris) to Sir J. Simon (Received November 26, 9.0 a.m.)

No. 175 L.N. Telegraphic: by bag [F 6933/1391/10]

PARIS, November 25, 1931

Following from Lord Cecil:

Council met again in private this evening. It adopted one or two verbal changes in the draft resolution.¹ It is understood that the Japanese Delegation practically accept the draft but there is no final indication of the Chinese attitude towards it.

Council had before it note from Chinese Delegation drawing attention to the danger of attack on Chinchow.² President, in name of his colleagues, addressed telegram to both Governments appealing to them to give strictest orders to their troops to prevent any fresh conflict.³ It was agreed that members of the Council should ask their Governments to instruct their representatives in Nanking and Tokyo to support this appeal. I request, therefore, that you will so instruct His Majesty's representatives.

Council agreed on the issue of a communiqué to the press giving the general lines of the draft resolution and indicating the present position.

It was agreed to hold further private meeting tomorrow (Thursday) afternoon and public meeting was provisionally fixed for Friday morning.

I understand that American delegate will probably issue declaration tomorrow stating that his Government endorse draft resolution.⁴

Repeated to Nanking and Tokyo.

¹ See No. 770, enclosure 2.

² Printed in *League of Nations Official Journal*, December 1931, p. 2558.

³ Printed *ibid.*, p. 2529.

⁴ Sir M. Lampson reported in his telegram No. 339 Tour that Mr. Johnson had told him in confidence on November 24 that 'his Government were in favour of proposed League resolution'.

No. 779

Sir M. Lampson (Nanking) to Sir J. Simon¹

(Received November 25, 3.30 p.m.)

No. 338 Tour: Telegraphic [F 6932/1391/10]

NANKING, November 25, 1931

In view of alarming reports current as to imminent Japanese action at Chinchow Dr. Koo has this evening told me and my United States and French colleagues that his Government wish to sound our Governments and if feasible make a formal proposition on following lines.

¹ This telegram was addressed to the Foreign Office through Paris.

In order to avoid any clash China is prepared as a temporary measure pending a general settlement of Manchurian question, if Japan insists on withdrawal of troops from Chinchow area, to do so up to Shanhaikuan, provided that Japan gives guarantees satisfactory to Great Britain, America and France not to go into that zone leaving Chinese civil administration intact including police.

In view of critical situation we undertook to commend this to our Governments and ask for speedy reply repeating urgently to our Ambassadors in Japan for their information.²

Repeated to Tokyo, Peking and Commander-in-Chief.

² This joint report is printed in *Foreign Relations of the United States 1931*, vol. iii, p. 558. Sir M. Lampson subsequently reported in his despatch No. 228 Tour of December 8 from Nanking that Dr. Koo had sent him a memorandum dated December 5 in which he quoted the formula printed in the second paragraph above, and added: 'Dr. Koo asked His Excellency the British Minister as well as the French and American Ministers to sound the views of their respective Governments and stated that, if the three governments were favourably disposed towards the suggestion, then the Chinese Government would consider the submission of a definite proposal for discussion. Since Dr. Koo kept no record of the aforesaid conversation, he would appreciate a confirmation from His Excellency the British Minister if his recollection of the substance of the conversation is correct.'

The three Ministers agreed to reply in identic terms, making it clear 'that we had clearly understood from his language at the interview that the Chinese Government intended as, no doubt, they did at the time—to put forward a formal proposal on the basis of the formula suggested, if our Governments received it favourably, and not that they would merely consider doing so, as stated in Dr. Koo's memorandum. In other respects however Dr. Koo's record of what passed at the interview is strictly accurate.'

No. 780

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

No. 23¹ Telegraphic [F 6936/1391/10]

TOKYO, November 25, 1931

Sir M. Lampson's telegram No. 338.²

Minister for Foreign Affairs informed me this afternoon in unofficial conversation that Japanese Government had not proposed withdrawal of Chinese troops because they feared that Chinese Government would consider such proposal a breach of sovereign rights and would refuse. Any further refusal would have only made things worse. None the less Minister for Foreign Affairs considered withdrawal of Chinese troops would ease the situation enormously.

I congratulated Minister for Foreign Affairs on having prevented attack on Chinchow up to now and begged him not to relax his efforts. He fully

¹ This telegram was addressed to Paris as No. 23 on November 25, and was repeated thence unnumbered to the Foreign Office, where it was received on November 26 at 9.0 a.m.

² No. 779.

realised importance of having no further local incidents, but is evidently having great difficulty with the military who are sending alarming reports about concentration and war-like preparations at Chinchow.

Repeated to Nanking.

No. 781

Sir M. Lampson (Nanking) to Mr. Eastes (Mukden)

No. 9¹ Telegraphic [F 6876/1391/10]

NANKING, November 25, 1931

Your despatch No. 106.²

Claims of British subjects for release of goods impounded by Japanese in Chinese military establishments seem to depend on whether they can produce satisfactory evidence that goods are their property.

2. If so, you should point out to Japanese authorities that cases are not covered by their notification which refers to 'property ownership of which cannot be established' and states that claims cannot be satisfied 'in reliance solely upon one sided statements of people concerned'.

Repeated to Foreign Office, Peking and Tokyo.

¹ This telegram was addressed to Mukden as No. 9, and was repeated as No. 340 Tour to the Foreign Office, where it was received on November 25 at 9.30 a.m.

² Not printed. This despatch (No. 32 to the Foreign Office) of November 9 reported that Mr. Eastes had been unable to get permits from the Japanese military authorities to enable British subjects to remove their property from various military establishments of the former Chinese authorities.

No. 782

Lord Tyrrell (Paris) to Sir J. Simon (Received November 26, 11.40 a.m.)

No. 176 L.N. Telegraphic: by telephone [F 6939/1391/10]

PARIS, November 26, 1931

Following for Secretary of State from Lord Cecil.

Your telegram No. 314.¹

I understand that Drummond and Briand contemplate a declaration by the latter in the event of Chinese and Japanese accepting draft resolution. I will show to Drummond the statement which you thought of making. May I take it that you approve of my revision of Cadogan's draft?² I propose also

¹ No. 775.

² This draft statement, after revision by Lord Cecil, read as follows:

'In accepting the resolution and in associating myself with what the President has said, I desire, if I may, to add certain observations and reflections on my own behalf and on that of my Government.

'My colleagues are aware that I have only joined in their labours at a late stage in their

to show Drummond my original draft in case he and Briand may care to adopt any of the points in it explaining that it is a personal document for which I alone am responsible. Briand seemed last night inclined to add phrase emphasising the complete liberty of action of the Commission as far as their report was concerned. If Briand's declaration includes substantially all that is in the Cadogan draft I should merely repeat in other words what he had said and express His Majesty's Government's agreement. No doubt all the other members of the Council will speak, most of them in a more Chinese sense than anything Briand is likely to say. If Briand should omit or slur over anything in the Cadogan draft which seems to me important I propose unless otherwise instructed to supply the omission. Naturally the course of the discussion may require me to say or do something which I do

deliberations on this difficult matter. For my knowledge of the earlier stages I have had to rely on a study of the documents and records of the proceedings.

'I had hoped that an early and satisfactory solution might have been reached on the lines of the resolution adopted unanimously by the Council on September 30th last.

'While regretting that that should not have proved possible, I recognise that the circumstances of this particular case are altogether exceptional.

'The discussions that have taken place since September have shown that the elements of the situation are both numerous and complex. Therefore when I learnt that the Japanese Government had proposed a Commission of Investigation, I welcomed this proposal as I believed that a thorough enquiry into the whole question might prepare the way to a comprehensive and lasting settlement.

'To isolate any one issue and deal with it without reference to its relation to other aspects of the problem as a whole might, if successful, have produced an earlier result, but one of a more partial and transient nature.

'In a sense our mandate has been enlarged by the Japanese proposal for a Commission of Investigation. The Council will now have the opportunity of going to the root of the matter and attempting to find a more permanent solution of the difficulties which might prevent the recurrence of a situation such as that with which we have been confronted. That will however not by itself deal with the special matter which the Council was called upon to consider under Article 11.

'If the Council has consented now to devote itself to this larger task, the completion of which will require some considerable time, the Council would, I am sure, wish to emphasise at once that it cannot admit that a State, however legitimate its grievances, may, without prior recourse to the recognised methods of peaceful settlement, take the law into its own hands in order to enforce its demands. That, after all, is the fundamental principle of both the Covenant of the League of Nations and the Pact of Paris, as fundamental as the scrupulous respect for all treaty obligations on which the Preamble to the Covenant so rightly insists.

'In this connection, I have noted with satisfaction the declarations made by my Japanese colleague that his Government have no territorial designs in Manchuria; nor do they propose to use their occupation of Chinese territory to compel the Chinese Government to accept a particular solution of any question. On the contrary they intend to withdraw their troops into the railway zone as soon as the safety of Japanese life and property has been secured.

'I earnestly hope that this position may shortly be reached, and I am confident that the Japanese Government will then immediately fulfil the pledge that they have given in this regard.

'I have also noted with equal satisfaction the recognition by my Chinese colleague of the inviolability of international engagements; a recognition to which his Government will doubtless give practical effect.'

not foresee now, but I will in that case be guided by what I understood to be your views of the subject.

I should be grateful for early reply so that I may make necessary arrangements with Sir E. Drummond.

No. 783

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received November 26, 10.30 a.m.)

No. 24¹ Telegraphic [F 6990/1391/10]

TOKYO, November 26, 1931, 12.0 noon

Your telegram No. 158.²

You will see from my telegram No. 23³ that I have anticipated instructions. I am convinced that the Government are straining every nerve to restrain the army. Their difficulty is the old constitutional one that the army is responsible direct to the Emperor who gives his nominal orders through Chief of the General Staff not through the Government. I discussed this at length yesterday with the Minister for Foreign Affairs who said that it had constantly to be borne in mind at Paris when considering wording of proposals which were acceptable in substance to Japanese Government that the proposals required verbal alterations to meet constitutional difficulty about which Privy Council were most touchy.

Repeated to Nanking.

¹ This telegram was addressed to Paris as No. 24 on November 26, and was repeated thence unnumbered to the Foreign Office, where it was received on November 27.

² i.e. Sir J. Simon's telegram 158 to Tokyo (No. 776).

³ No. 780.

No. 784

Sir J. Simon to Lord Tyrrell (Paris)

No. 19 Saving: Telegraphic: by telephone [F 7028/1391/10]

FOREIGN OFFICE, November 26, 1931, 4.50 p.m.

Following for Lord Cecil from Secretary of State.
Begins:

Entirely approve of your putting our suggestions before Drummond and urging strong declaration on behalf of Council as a whole. I take no exception to your suggested emendations¹ and leave you with fullest discretion on these lines as to language you would suggest for Briand to use in name of whole Council. But it would clearly be desirable to avoid indicating before-

¹ i.e. Lord Cecil's revision of the draft statement to be made by the Secretary of State: see No. 782, note 2.

hand that we had contemplated making such statement ourselves for that might incline Briand to leave it to us, which is exactly what Cabinet wishes to avoid for reasons given in my previous telegram.² We must of course observe and apply Cabinet decision but subject to this you have full discretion and must be guided by circumstances.

Naturally if other Members of the Council intend to speak we should do so too and as you know I want us throughout to support moral authority of League, always provided that we do not take up line independent of the President and the other Members of the Council, which would be ineffectual in practical result.

On the above lines you may be sure you will have my fullest and unswerving support.

² No. 775.

No. 785

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received November 26, 12.0 noon)

No. 27¹ Telegraphic [F 6983/1391/10]

TOKYO, November 26, 1931, 5.20 p.m.

My telegram No. 24.²

If irresponsibility of military to Government becomes intolerable the Ambassadors could as a last resort demand audience with the Emperor. This would be a very serious step which I do not advocate but which is worth remembering.

¹ This telegram was addressed to Paris as No. 27 on November 26, and was repeated thence unnumbered to the Foreign Office, where it was received on November 27.

² No. 783.

No. 786

Lord Tyrrell (Paris) to Sir J. Simon (Received November 27, 9.0 a.m.)

No. 178 L.N. Telegraphic [F 6980/1391/10]

Following from Lord Cecil:

PARIS, November 26, 1931, 11.20 p.m.

At private meeting today M. Briand informed his colleagues that the Chinese delegate has just told him more favourable instructions which he was in process of decyphering, had reached him from Nanking. There, therefore, seemed to be more hope of reaching agreement on basis of draft resolution. It was decided to appoint drafting committee consisting of M. Briand, Spanish and Norwegian delegates and myself to concert text of resolution with parties. It does not appear possible to hold a public meeting before Saturday¹ at the earliest.

¹ November 28.

Council adopted the following proposal: 'it is suggested those Governments who are able to send observers to the neighbourhood of Chinchow should give them the following instructions; (1) Observers to concert together with a view to possibility of establishing between Chinese and Japanese troops a neutral zone or any similar arrangement for avoiding a clash between them.²

'(2) Observers should concert methods of establishing liaison with commanders of Japanese and Chinese forces with a view to making necessary arrangements.

'Chinese and Japanese Governments have been informed of this proposal.'³

If therefore you concur I shall be glad if appropriate instructions could be sent to His Majesty's representative without delay.

Would it be possible further to instruct His Majesty's Minister at Nanking to discuss with his colleagues arrangements for a regular concerted organisation of observers with close liaison between different nationalities and collation of reports and with sufficient observers held in readiness to proceed to the localities which may be indicated as danger points? It seems essential that in case of need we should be able to act rapidly.

Repeated to Nanking and Tokyo.

² In this connexion Lord Cecil had reported in Paris telegram No. 177 L.N. of November 26: 'Suggestion has been made by Chinese delegate that it might be possible with the assistance of neutral observers to establish line of demarcation between Chinese and Japanese forces in the neighbourhood of Chinchow. M. Briand may put this suggestion before Council at private meeting this evening.'

³ For M. Briand's letter to the Chinese and Japanese Governments informing them of this proposal, see *League of Nations Official Journal*, December 1931, p. 2530.

No. 787

Lord Tyrrell (Paris) to Sir J. Simon (Received November 27, 9.30 a.m.)

No. 179 L.N. Telegraphic [F 6979/1391/10]

Following from Lord Cecil.

PARIS, November 26, 1931, 11.25 p.m.

My telegram No. 174.¹

Chinese delegate put yesterday to the Council proposal for despatch of neutral troops. The President seemed to dismiss the suggestion but today some members of Council enquired whether there was any possibility of adopting it. Could I be informed whether there is any such possibility so far as we are concerned? If the reply is negative I would not announce it unless pressed to do so and unless other representatives indicate attitude of their Government[s].²

Repeated to Nanking and Tokyo.

¹ No. 774.

² With reference to the proceedings of the Council of the League of Nations reported in Nos. 786 and 787, Lord Cecil sent the following letter, dated Paris, November 26, 1931, to Sir J. Simon:

'My dear Simon,

'Very many thanks for your letter [not traced in Foreign Office archives]. It has taken a great weight off my mind. I am extremely obliged to you for it and I will do my best to carry out to the full what you want done.

'As things have turned out, it doesn't look as if there would be any public meeting until Saturday [November 28] at the earliest and probably not till Monday or Tuesday. The Chinese seem to have intimated to Briand that they are authorised to negotiate on the basis of the Resolution but that they have a fair number of amendments to propose and it is for that reason that the Drafting Committee referred to in my telegram tonight has been appointed. I understand Briand himself is not going to attend the Drafting Committee but is going to send Massigli—which perhaps in all the circumstances of the case is likely to produce a quicker result. We are to meet at 10.30 tomorrow morning to find out what the Chinese really want. I hope we may perhaps be able to meet some of their points by putting them into the Declaration by the President and leaving the Resolution more or less as it is. However, one cannot tell about that until one hears the Chinese case.

'We have been very fortunate in having out in Nanking Rajchman, one of the Secretariat, who has been out in China for some little time on more than one occasion helping the Chinese, particularly with medical questions, but also in general trying to get things a little straighter. He is a Polish Jew of quite extraordinary ability and has, I understand, obtained a very great influence over the Chinese. My impression is that it is due to his action that the Chinese have suddenly changed their attitude and become much more friendly to the Resolution. It may also be partly the consequences of American pressure.

'Briand this afternoon expressed what we all feel, namely our great anxiety lest some new military vagary of the Japanese may not destroy the hopes of a settlement at the last moment—in particular, we are all very anxious about Chinchow. The best hope seems to be to organise a corps of observers as it were who can be employed primarily at Chinchow, but later on at other places. They can be drawn from the French, Americans, British, Germans and Italians, if there are suitable people available. Today Scialoja announced that the Italian Government were prepared to place their soldiers at the disposal of the Council for any such scheme.

'I understand that Sze has told Eric Drummond that his chief preoccupation was that the Council should understand his anxiety that the Japanese may renew their aggression and that it would be a very good thing if some such organisation continued in existence after the end of the Council's meeting. In the same order of ideas I should be very glad to know whether the military authorities thought it would be at all possible to utilise any part of the troops we have out there to take the place of Chinese troops which might be withdrawn to avoid a clash with the Japanese. I do not of course mean that we should send up any troops for the purpose of fighting anybody, but merely for the purpose of being a guarantee to the Japanese that there was going to be no Chinese aggression and at the same time a guarantee to the Chinese that there would be no attack on their territory where the troops were stationed. I do not wish to press this suggestion, though it has come from Chinese sources, as you know, but I should be glad if it could be considered in case it might turn out to be a useful device at any time. As we agreed when you were here the most essential thing is to stop bloodshed and I do feel very strongly that this organisation of observers or even of military units might be a real method of doing so. Once we have put an end to bloodshed and fighting I am inclined to believe that the Commission will find it not a very difficult task to reach some kind of temporary settlement, a permanent settlement could only probably be the work of time, if indeed it is ever attainable.

'We do not get very illuminating telegrams from Tokyo and therefore I cannot guess what has made the recent change in the Japanese attitude, but I strongly suspect it is the pressure of the Chinese boycott.

'Yours ever,
R. C.'

*Sir J. Simon to Sir F. Lindley (Tokyo)*¹

No. 601 [F 6768/1391/10]

FOREIGN OFFICE, November 26, 1931

Sir,

With reference to recent correspondence regarding the situation in Manchuria, I have to inform Your Excellency that the Japanese and Chinese delegates were summoned in turn to a private meeting of the Council of the League of Nations on the 18th November. The Japanese delegate was asked, with reference to his letter to the President of the Council of the 7th November,² to indicate how the draft resolution of the 24th October failed to cover the first four Japanese points, and, with regard to the declaration in Dr. Sze's letter of the 24th October³ of China's readiness to respect treaty obligations, to indicate how it was insufficient, whether the Japanese Government desired a general declaration of readiness to respect treaties, or whether such a declaration should specify particular treaties, and, if so, which treaties, and to what extent was 'security' involved in the question of treaties.

2. In reply the Japanese delegate raised the following objections to the draft resolution of the 24th October:—

- (1) The expression 'hostile agitation' in paragraph (2) was too vague.
- (2) Paragraph 4 (*b*) failed to give security for the agricultural exploitation of Manchuria which was covered by the expression 'effective protection of all peaceful pursuits' in the fourth Japanese point.
- (3) The Japanese Government were determined to insist on China respecting treaty rights regarding railways in Manchuria.

3. With regard to the five points stated in paragraph 4 of the Japanese Government's declaration of the 26th October, Mr. Yoshizawa added that these were merely headings, the ideas contained in which would be developed in the course of negotiations.

4. In reply to the second question the Japanese delegate made the following statement. His Government took exception to the suggestion in the Chinese note that the treaties might be referred to arbitration. The treaties, including that arising out of the Twenty-one Demands, had been duly signed and ratified; they had been discussed at Washington and their validity recognised, and they could not be called in question now. The Japanese Government would not be satisfied with a general declaration, even if such a declaration contained specific mention of certain treaties, because they were not satisfied that China would carry out the terms of those treaties. The Japanese Government wished to establish a formal agreement whereby the Chinese Government would confirm their undertaking to carry out the

¹ Note in original: 'Also to Peking (No. 950), *mutatis mutandis*.'

² See No. 712, note 1.

³ See No. 689, note 2.

stipulations of the treaties. Many of the treaties referred to security of lives of Japanese and the protection of their property. Respect for treaty obligations was, therefore, necessary in order to afford adequate security.

5. In reply to further questions, Mr. Yoshizawa stated that evacuation would be begun when agreement had been reached on the five points. The Japanese Government had frequently been deceived in the past, but, if the Chinese Government would give evidence of their sincere desire to meet their obligations, evacuation would be effected as soon as possible. The attitude of the Japanese Government had always been that they must be convinced of the sincerity of the Chinese Government before they completed evacuation. The evacuation would be completed after agreement had been reached on the five points. This meant an agreement on principles, not, perhaps, on the last details, because that might take too long. Directly negotiations were finished evacuation would be completed, but, if in the meanwhile, in certain districts sufficient order and security were assured, the troops might be withdrawn from those districts.

6. Mr. Yoshizawa then withdrew and Dr. Sze came to the Council table. Referring to Dr. Sze's letter of the 24th October, the President asked what exactly he had meant by scrupulous respect for all treaty obligations, and enquired whether the Chinese Government had any reservation to make and whether they excepted any particular treaties from the declaration. Dr. Sze replied that his letter recalled that all members of the League were required to observe a scrupulous respect for treaty obligations. The Chinese Government wished to fulfil the terms of the Covenant, which also bound them to settle all disputes as to treaty interpretation by reference to arbitration. Japan had not filed a list of treaties as required by the resolution passed at the Washington Conference, and China, therefore, did not know what treaties Japan had in mind. If there was any doubt about any particular treaty it might be referred to arbitration or judicial settlement. China would, however, refuse to re-sign the Twenty-one Demands. Dr. Sze then gave an account of the presentation of the Twenty-one Demands in 1915 and their subsequent signature under pressure. China had never ratified the signature of the Twenty-one Demands, and had made a reservation that they would protest their invalidity on every occasion that might present itself, and they had, in fact, done so at Washington.

7. Finally, Dr. Sze referred to the hostilities on the Nonni River, and stated that at the first public meeting of the Council he might have to invoke Articles 10, 12, 15 and even, if necessary, 16 of the Covenant.

8. A similar despatch has been sent to His Majesty's Minister at Peking.

I am, &c.,

JOHN SIMON

No. 789

Letter from Sir J. Simon to Viscount Cecil (Paris)

[Confidential/General/349/1]

My dear Cecil,

FOREIGN OFFICE, *November 26, 1931*

Grey¹ was in London today and I asked him to talk over the Manchurian situation with me. I told him how anxious you and I were to secure that, in the course of the wind up of the present Council deliberations on this matter, there should at any rate be some vindication of the moral authority of the League. And I put to him the point of difficulty which might arise if Briand's declaration on behalf of the League fell short of what we should wish.

Grey expressed to me his own view, to which I naturally attach great importance as you will also, I know. He said that he does not think that a separate declaration on behalf of H.M. Government would be at all effective. The whole principle of the League is that action should be collective and a separate declaration by one Government in a case like this would not, he considers, strengthen the prestige of the League, but would rather weaken it and emphasise its failure. He added (I reproduce him textually): 'I feel H.M. Government will best serve the prestige of the League by supporting inside the Council the strongest collective declaration but not by taking separate action'.

I sent you a telegram the first moment I could in reply to yours earlier in the day² and feel sure that there is no possibility of misunderstanding between us. You know how completely and sincerely I am looking forward to our co-operation and I shall try to return to be with you at the critical moment. But it really is not possible to get away yet, for the Indian conundrum is as urgent as the Manchurian conundrum and if it goes wrong will lead to appalling consequences on a scale as big as China itself.

I am dictating this in haste so as to catch tonight's bag.

J. SIMON

¹ Viscount Grey, Secretary of State for Foreign Affairs, 1905-16.

² The reference is presumably to Nos. 784 and 782.

No. 790

Sir J. Simon to Sir M. Lampson (Nanking)

No. 159 Tour: Telegraphic [F 6858/1391/10]

FOREIGN OFFICE, *November 27, 1931, 12.55 p.m.*

Your telegram No. 332.¹

Proposal reported is remote from practical possibilities and you should intimate this to Chinese Minister for Foreign Affairs. I fear that Chinese Government and Dr. Sze have keener sense of debating points than of realities.

Repeat to Tokyo.

¹ No. 765.

Sir M. Lampson (Nanking) to Sir J. Simon¹ (Received November 28)

No. 346 Tour: Telegraphic [F 7026/1391/10]

NANKING, November 27, 1931, 1.40 p.m.

Your telegram No. 157.²

I have made required representations to Mr. Koo.

In taking note thereof he begged to reply that China has consistently been following her announced policy of restraint and moderation. She intends to continue to act along the same lines unless Japan should make it necessary for her to depart from it.

2. In ensuing confidential discussion he said one point on which China *must* stand firm was a fixed period for evacuation. The whole country was solid on that and Chinese Government saw no way out. A time limit was the least that would give China some measure of confidence that Japan's occupation was taken seriously by Council and ought to be terminated. Without that no one would believe the League had done its best. Unless Japan harboured serious designs on Manchuria (and China believed she did) there was no reason why she should not withdraw her troops. If it were a question merely of face saving surely that was insignificant compared with the grave issues at stake over occupation. Proposed Council resolution seemed openly to condone an act of wanton aggression—and this China believed to be against the interest both of the League and of the whole world. If a break was to come this was the rock. If the League wanted to avoid a break he hoped that Council could do something to help China out. No question of principle was involved since Japan had actually agreed to withdraw. To Japan it could therefore mean little to fix a period if she were sincere—especially in her confidence in the League.

3. I observed, logical as her point of view might be, Council must do what they could with means at their command: and it was well known that Japan was absolutely opposed to any fixed date. Could not China's point be turned by some formula?

4. He then made following confidential suggestion; (a) some fixed period (naturally as short as possible but length open to discussion); (b) leave it to Commission of Enquiry to decide whether measures for protection of Japanese life and property are adequate. If in its opinion (which China would be ready to accept) measures were inadequate the Commission to recommend such additional measures as they think requisite.

5. At his urgent request I agreed to lay this before you and to say if some such (or other) formula to meet Chinese point could be evolved I most certainly felt it was in the general interest it should be adopted. For there can be no doubt that public pressure upon Government is growing daily. There are at present some 10,000 students in Nanking parading the streets

¹ This telegram was addressed to the Foreign Office through Paris.

² No. 776.

and more are expected. I doubt gravely myself whether the Government could yield over question of fixed date even if they now wished to.

Repeated to Peking and Tokyo.

No. 792

Sir J. Simon to Lord Tyrrell (Paris)

No. 318 Telegraphic [F 6979/1391/10]

FOREIGN OFFICE, *November 27, 1931, 10.0 p.m.*

Your telegram No. 179 L.N.¹

Following for Lord Cecil.

There can be no question of the despatch of British troops.

¹ No. 787.

No. 793

Sir J. Simon to Sir M. Lampson (Nanking)

No. 160 Tour: Telegraphic [F 6980/1391/10]

FOREIGN OFFICE, *November 27, 1931, 10.0 p.m.*

Paris telegram No. 178.¹

While prepared to concur in Council's proposal I am anxious to avoid anything like gradual development of a body which might come to be considered or treated as having a collective responsibility. While therefore objects explained in above telegram have my sympathy and Military Attaché may if requested give his advice in promoting the first two if he sees his way to doing so in a personal capacity, I should wish him to be careful to avoid above dangers. His freedom of movement should not be impaired.

For reasons indicated above I am not prepared to accept suggestion in last paragraph of the telegram.

Repeated to Tokyo and Paris.

¹ No. 786.

No. 794

Lord Tyrrell (Paris) to Sir J. Simon (Received November 28, 9.30 a.m.)

No. 181 L.N. Telegraphic: by bag [F 7027/1391/10]

PARIS, *November 27, 1931*

Following from Mr. Cadogan:—

Council met in private this afternoon.

President reported result of interview with Chinese Delegate who, although he did not communicate his detailed proposals for amendment, indicated

that he must press for some time-limit for evacuation. He seemed, however, prepared to consider any formula which could be devised for giving appearance of time-limit without being definitely unacceptable to Japanese.

Drafting Committee held two short meetings today, but was unable to make much progress in absence of Chinese amendments which it is hoped to have tomorrow morning when Chinese Delegate may also appear before Drafting Committee.

At their meeting this evening Committee considered possibility of finding some formula for evacuation on basis that, if occupation still continues, Commission on its arrival should report on possibilities of evacuation.

No meeting fixed for tomorrow except that of Drafting Committee.

Repeated to Nanking. (To Nanking.) Please repeat to Tokyo.

No. 795

Letter from Viscount Cecil (Paris) to Sir J. Simon

[Confidential/General/349/1]

PARIS, November 27, 1931

My dear Simon,

Many thanks for your letter.¹ I entirely agree with the view expressed by you and Grey that it is desirable that there should be corporate action by the Council and I hope now that there is every chance that that will satisfactorily be carried out.

We had a meeting of the little Drafting Committee to-day² and it was agreed that as soon as we knew where we were about the Resolution we should try and draft a declaration for Briand's consideration and as part of the machinery for that purpose it was further agreed that each member of the Committee might send to Drummond his suggestions as to what that statement might be and he would then try and draft something which the Committee might consider later. I propose, therefore, to take the various documents which have been drawn up and elaborate a statement from them which could form part of Briand's declaration. Probably, indeed, he will make two declarations, one merely explaining the Resolution and laying it before the Council and the other laying down the general principles by which the Council should be guided in such cases as these, embodying statements such as you and I considered when you were here. The only case in which I thought it possible that it might be desirable for the British Delegate to add something to Briand's statement would be if he omitted some feature which the British Delegation regarded as essential. In doing so he would naturally make his contribution in the form of an elaboration of what Briand had said, rather than an addition or contradiction, but I hope no such action in the circumstances will be necessary, or desirable.

The drafting Committee is to see Sze tomorrow and hear what definite

¹ No. 789.

² See No. 794.

proposals for amending the Resolution he has got to make. The stumbling block is still the time for evacuation. It appears to me now that there is good ground for saying that it would be improper for us to fix a time until we have heard what our Commission has had to say on the subject. The only difficulty is that that must mean a considerable delay, since it would take some little time to get the Commission set up. It is now thought that we cannot get off with less than five members of the Commission partly because the Italians insist on having a representative on it and partly because there really are a good many aspects of the question which will have to be considered and we should aim at having an expert on each of them, e.g. military, legal, administrative, railway and financial, and perhaps also a general Far Eastern expert if one can be found who is both competent and not prejudiced violently in favour of one side or the other.

An American, one Davis, a very competent person, has just called on me and shown me the enclosed document. It is an aspect of the matter which I hope the Government will not forget, that it is a profound mistake to suppose that the Americans by nature are against strong action—on the contrary, they are very much in favour of it, but they prefer it to be taken by someone else rather than themselves. The idea prevailing in the 'Observer' and other papers that if the League takes any strong measures it would lose the sympathy of America, is the exact reverse of the truth as I see it.

Yours ever,
R. C.

ENCLOSURE IN No. 795

PARIS, *November 27, 1931*

An American just arrived in Paris, having made a special trip following conversations with an official of high rank in the Department of State in Washington, brings this information in regard to American views concerning the Manchurian dispute and American co-operation with the League:

1. Popular feeling in the country tends increasingly to urge that something efficacious be done, and except for negligible opposition, favours co-operation with the Council.

2. The opinion in Washington and the country is that through Mr. Dawes the United States is in Paris to work closely with the Council, which has the initiative since the case was submitted to it; that the American role is to reinforce its action; and that collaboration is to be carried on in the most cordial possible manner. In fact, the intention in sending him was to indicate readiness to co-operate in other cases in future, if there should be need.

The fact that Mr. Dawes has not sat at the Table of the Council is explained to be for purely tactical reasons, in order to keep attention centred on the main issue and to avoid any possibility of confusion and difficulty arising through friction between the United States and one of the disputants,

which in the present circumstances might unduly inflame an already over-tense public opinion and allow it to get out of hand. This is the view of officials, who consequently have desired to proceed cautiously. However, it is considered that there has not been the slightest change in the American attitude of strongly supporting the Council in seeking withdrawal of troops from occupied territory and adjustment of differences by pacific means.

3. As to the length to which the United States might be prepared to go by progressive steps, the same informant had it from official circles that if the Council Powers should contemplate recall of Ambassadors or any other form of severing of diplomatic relations, the United States is prepared to support such a move in the interests of making the peace machinery work. This was explicitly stated by a high official in the Department.

These views are independently confirmed by the Geneva correspondent of the 'New York Times' recently returned, who had conversations at the White House and at the Department of State. Further, Clark Eichelberger, director of the Mid-West branch of the League of Nations Association at Chicago, has cabled in response to enquiries and requests for clarification of the American position:

'Fosdick¹ and others think impossible secure clarification State Department position here if unable to secure it in Paris. Growing sentiment League too hesitant waiting for the American attitude. League should take leadership expecting America to follow. If League does not lead we cannot urge the Government to follow. News quotes Government official as saying that if League decides to invoke economic boycott, it knows this Government is not going to interfere with it; we are trying to get the same results as the League.'

¹ A member of the American Academy of Political and Social Science and of the American Institute of International Law. Mr. Fosdick had been an Under-Secretary-General of the League of Nations, 1919-20.

No. 796

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

No. 29¹ Telegraphic [F 7054/1391/10]

TOKYO, November 28, 1931, 11.30 a.m.

My telegram No. 26.²

French Ambassador informed me last night that Japanese Government had officially accepted the proposal.³

Repeated to Nanking.

¹ This telegram was addressed to Paris as No. 29 on November 28, and was repeated thence unnumbered to the Foreign Office, where it was received on November 29 at 6.30 p.m.

² No. 798.

³ i.e. the Chinese proposal recorded in No. 779.

No. 797

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

No. 30¹ Telegraphic [F 7052/1391/10]

TOKYO, November 28, 1931, 11.35 a.m.

My telegram No. 27 to Sir M. Lampson.²

Following is substance of Captain Walters' telegram which he intended only for private information and possible guidance of Rajchman.

Japanese will not evacuate Manchuria until administration under people who they believe will observe treaty rights and who are unconnected with the Young Marshal or other war lords. No chance of Powers applying Article 16. Urges desirability of direct negotiations. Does not believe Japanese would prove unreasonable. Prolongation of crisis involves risk of war. Unreasonable to declare war without knowing exactly Japanese proposals. No objection to informing T. V. Soong that above is only Captain Walters' personal opinion.

¹ This telegram was addressed to Paris as No. 30 on November 28, and was repeated thence unnumbered by bag to the Foreign Office, where it was received on November 29 at 6.30 p.m.

² Not printed.

No. 798

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

No. 26¹ Telegraphic [F 7053/1391/10]

TOKYO, November 28, 1931, 11.50 a.m.

My telegram No. 23.²

French Ambassador saw the Minister for Foreign Affairs this morning³ and in accordance with his instructions urged him to accept Chinese proposal.

I saw the Minister for Foreign Affairs, (? and)⁴ Count Makino, this afternoon and did the same saying that though I had no instructions I was sure that my Government shared the French view.

We both used all possible arguments. I found the Minister for Foreign Affairs well disposed but he said it was impossible to accept without consulting his colleagues.

Repeated to Nanking.

¹ This telegram was addressed to Paris as No. 26 on November 28, and was repeated thence unnumbered by bag to the Foreign Office, where it was received on November 29 at 6.30 p.m.

² No. 780.

³ This telegram was drafted on November 26.

⁴ This word was suggested in the Foreign Office.

No. 799

Lord Tyrrell (Paris) to Sir J. Simon (Received November 28, 2.30 p.m.)

No. 182 L.N. Telegraphic [F 7047/1391/10]

Following from Lord Cecil.

PARIS, November 28, 1931, 1.10 p.m.

Beg earnestly for reconsideration of last paragraph of my telegram No. 178.¹ Idea was discussed here at private meeting and received general approval notably of the French, Italians and Germans. Situation extremely acute and some effective measures must be taken to prevent clash of hostile forces. Unless some effective organisation can be created for that purpose we may be faced with further serious incidents and position of Council will become impossible. Unless we can reassure the Chinese . . . ² their assent to resolution to be unlikely. Quite agree as to British troops.

¹ No. 786.

² The text is here uncertain.

No. 800

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

No. 32¹ Telegraphic [F 7056/1391/10]

TOKYO, November 28, 1931, 2.10 p.m.

Following for Sir E. Drummond from Walters:

The Government appears to be firmly determined not to allow attack on Chinchow. It is reported that General Staff agree and that withdrawal to Hsinmin has already begun. Chinese proposal to withdraw to the Wall is stated to be accepted in principle.

¹ This telegram was addressed to Paris as No. 32 on November 28, and was repeated thence unnumbered by bag to the Foreign Office, where it was received on November 29 at 6.30 p.m.

No. 801

Sir J. Simon to Sir M. Lampson (Nanking)

No. 162 Tour: Telegraphic [F 7047/1391/10]

FOREIGN OFFICE, November 28, 1931, 9.25 p.m.

My telegram No. 160.¹

In view of further information I have re-considered last paragraph of League of Nations telegram No. 178² and am willing to adopt suggestion.³

Repeated to Paris.

¹ No. 793.

² No. 786.

³ Sir M. Lampson informed Mr. Holman of this decision in his telegram No. 589 to Peking (repeated to the Foreign Office as No. 359 Tour) of November 30. He added: 'American, French and German Ministers and Italian Chargé d'Affaires are instructing their observers to collaborate with you in implementing those instructions.'

No. 802

Sir M. Lampson (Nanking) to Sir J. Simon¹
(Received November 28, 7.15 p.m.)

No. 354 Tour: Telegraphic [F 7087/1391/10]

NANKING, November 28, 1931, 11.10 p.m.

On November 27 United States Ambassador at Tokyo was told to see the Minister for Foreign Affairs and leave copy of message to the following effect from Secretary of State.

Secretary of State was much concerned to learn of Yoshizawa's memorandum regarding Chinchow.² On November 24 the Minister for Foreign Affairs assured United States Ambassador that there would be no movement of troops towards Chinchow. In reliance on this United States Government had urged conciliation on the Chinese Government and accepted the League resolution. As there are only 20,000 Chinese troops in Chinchow area and this 120 miles from Mukden Secretary of State cannot see danger to South Manchurian Railway unless Japanese troops disregard their orders. If reports of pending action are confirmed United States Ambassador is to tell the Minister for Foreign Affairs that United States Government are astonished and totally unable to reconcile it with assurances received from Japan.³

Repeated to Peking and Tokyo.

¹ This telegram was addressed to the Foreign Office through Paris.

² The reference is presumably to the note printed in *League of Nations Official Journal*, December 1931, pp. 2529-30.

³ See *Foreign Relations of the United States: Japan 1931-1941*, vol. i, pp. 50-51.

No. 803

Lord Tyrrell (Paris) to Sir J. Simon (Received November 29)

No. 184 L.N. Telegraphic: by bag [F 7048/1391/10]

PARIS, November 28, 1931

Following from Mr. Cadogan:—

Drafting Committee this morning heard Chinese Delegate and considered amendments which he proposed to first part of draft resolution.

His principal point was that there should be fixed date for evacuation. He was asked to consider insertion of passage to effect that, if evacuation has not been carried out by arrival of Commission latter shall be called upon to verify, for the information of the Council, the degree of realisation and effectiveness of Chinese measures for security of Japanese lives and property.

Dr. Sze promised to submit this to his Government.

He pressed for appointment of League observers to supervise evacuation. It was pointed out to him that there was little prospect of getting this accepted.

He was urged to be content with presence of neutral observers, and he might be content with this if he could be assured that there was an adequate organisation for the purpose. (Full report sent by bag).¹

He will later present amendments to latter part of resolution regarding composition and terms of reference of Commission.

Report of proceedings of Drafting Committee was made this afternoon to private meeting of Council without the parties, and approved.

Drafting Committee will hear Japanese Delegate tomorrow morning.

Repeated to Nanking No. 16. Please repeat to Tokyo as my telegram No. 14.

¹ Not printed.

No. 804

Lord Tyrrell (Paris) to Sir M. Lampson (Nanking)

No. 13¹ Telegraphic [F 7040/1391/10]

PARIS, November 28, 1931

Following for Dr. Rajchman from Sir E. Drummond:—

Commission will certainly have full liberty to collect information from all sources and as first four paragraphs of resolution refer to evacuation and security I am convinced that the Commission will consider this as their primary task and will be able if necessary to make a preliminary report thereon, which could be immediately considered by the Council. They will have their own staff including members of Secretariat and facilities can be given for utilising the services of League technical organisations. It is clear that if evacuation is not complete when Commission arrives pressure caused by their presence and enquiries will be very great.

It is difficult and I fear impossible to force Japanese to begin direct negotiations for withdrawal and please consider that to do so would mean direct negotiations on security and the five fundamental points which are now in abeyance and I hope will be abandoned, will inevitably emerge.

I believe that system of extended observers of different Governments who would be ready to proceed to danger points indicated by either party will be most helpful (1) to avoid further clashes and (2) to help forward evacuation.

Japanese state that troops removed from Tsitsihar are being withdrawn to railway zone and that other regions are now being evacuated. Also it might be possible if arrangements made between two Governments for evacuation of any given region that neutral representatives should be attached to Chinese authorities destined to take over.

Defined period of withdrawal is therefore main stumbling block and in view of what I have stated above I trust Chinese will not insist on this point

¹ This telegram was addressed to Nanking as No. 13 on November 28, and was repeated as No. 180 L.N. by bag to the Foreign Office, where it was received on November 29 at 9.30 a.m.

as otherwise all may be wrecked with the results I indicated in my last telegram.² Besides it is really impracticable to ask the Council on the information at its disposal to fix such a period. We have succeeded in wringing great concessions from Japanese and I am terrified that if they are now pressed too hard they will withdraw them, as extreme National Party there are indignant. Council would I think be willing to continue for some days longer if there is real chance of settlement but there is already great anxiety to finish and it is both for Council and Japanese reasons that the avoidance of delay is so important. Please do your utmost.

Repeated to Foreign Office No. 180 L.N. by bag.

² It has not been possible to trace this telegram in the Foreign Office archives.

No. 805

Lord Tyrrell (Paris) to Sir J. Simon (Received November 30, 9.0 a.m.)

No. 185 L.N. Telegraphic [F 7061/1391/10]

PARIS, November 29, 1931, 10.42 p.m.

Following from Mr. Cadogan.

Drafting Committee met Mr. Ito¹ this morning to discuss the Japanese amendments to draft resolution. Satisfaction can probably be given to Japanese Delegation on most of these amendments which are mainly of a drafting character. But two of them may give rise to difficulty: (1) Mr. Ito insisted, though he declared himself unable to give any reasons, that number of proposed Commission should not exceed 3. (2) He desired the President in his concluding declaration should emphasize that the undertaking to refrain from military operations would not prevent Japanese troops from taking indispensable police measures for protecting Japanese lives and property against bandits and lawless elements in Manchuria.

Mr. Ito said his Government had instructed him to press for this formula which applied however only to period pending evacuation.

Drafting Committee reported to members of Council without parties this afternoon. It was decided to postpone discussion of composition of commission until Chinese delegate had been heard by Drafting Committee on this point. On the second point Lord Cecil and M. Briand and other members drew attention to dangers involved in Mr. Ito's formula which was reserved for further consideration.

Lord Cecil reported decision in your telegram No. 162 to Nanking² to accept the system of organising neutral observers. French and Italian Governments have now sent similar instructions to their representatives. German delegate has not yet received reply.

M. Briand read communication from the Japanese Government³ stating they could not accept policy of intervention by third parties in Chinese-

¹ Deputy-Director of the Japanese Bureau with the League of Nations.

² No. 801.

³ Printed in *League of Nations Official Journal*, December 1931, pp. 2531-2.

Japanese dispute and must therefore reject the offer to create neutral zone under the auspices of neutral observers at Chinchow. It was decided M. Briand should address further appeal to the Japanese Government⁴ pointing out that this was not to be regarded as attempt to intervene in negotiations but merely to prevent possible clash.

Drafting Committee will hear Chinese delegate again tomorrow.

Repeated to Nanking for Tokyo.

⁴ This letter of November 29 is printed *ibid.*, p. 2532.

No. 806

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

No. 39¹ Telegraphic [F 7090/1391/10]

TOKYO, November 30, 1931, 6.50 p.m.

Your telegram No. 184 to Foreign Office.²

I told the Minister for Foreign Affairs this afternoon that most immediate task now seemed to me to be to make practical arrangements for Chinese withdrawal from Chinchow zone. In this the neutral officers now in the zone might play a useful part.

The Minister for Foreign Affairs replied that he did not yet know whether the Chinese would finally agree to Japanese reply to their offer. If they did as he hoped, he proposed to send Japanese Consular officer either to Chinchow or Tientsin to arrange details. He did not think neutral assistance necessary.

Beyond reiterating my view that it might be helpful I let the matter drop.

The Minister for Foreign Affairs then said that bandits who never previously operated more than about 40 strong were now in bands up to 1500. Such bands could not live on pillage and must be regularly supplied. The problem of dealing with them was difficult but he hoped it would disappear with the withdrawal of Chinese.

Repeated to Nanking.

¹ This telegram was addressed to Paris as No. 39 on November 30, and was repeated thence unnumbered by bag to the Foreign Office, where it was received on December 1 at 9.0 a.m.

² No. 803.

No. 807

Lord Tyrrell (Paris) to Sir J. Simon (Received December 1, 9.0 a.m.)

No. 186 L.N. Telegraphic: by bag [F 7099/1391/10]

PARIS, November 30, 1931

Following from Mr. Cadogan.

Drafting Committee interviewed Chinese delegate this morning and Japanese delegate this afternoon.

Chinese delegate gave his views regarding formula in the event of evacuation not being complete by arrival of the Commission (see my telegram No. 184 L.N.).¹ He proposed that in this eventuality, Commission should be given general mandate to report on the situation and make recommendations. He attached importance to some such clause. He was asked by the Committee to consider the following alternative formula:—

‘Should the engagements taken by the two Parties under the resolution of September 30 not have been completely executed by the arrival of the Commission, the Commission shall as speedily as possible report to the Council on the situation with such recommendations as it may think fit.’

Chinese delegate proposed several amendments to paragraphs relating to the Commission, but when opposed seemed disinclined to press them. He suggested that Commission should be composed of nine or eleven members, but was told that in all probability five was the maximum limit to which the Council would go. He admitted that this was not a vital point.

Japanese delegate after yesterday’s meeting (see my telegram No. 185 L.N.)² had written a letter³ reiterating, on new instructions from Tokyo, all the amendments which he had proposed and some of which he had withdrawn at that meeting. Discussion this afternoon made it clear that the one point which Japanese Government at present regard as essential is proviso giving them liberty to employ military forces for taking ‘police measures’ against bandits. Japanese delegate strongly pressed for this proviso to be included in the resolution itself. General feeling of the Committee was that it created a dangerous precedent, and could only be accepted by the Council if Japanese Government agreed that such measures if found necessary should be notified in advance to neutral observers who would be invited to accompany the operations. It was also thought preferable to put this proviso in the President’s declaration rather than in the resolution.

Council met in private without the parties this evening. It endorsed generally attitude of Drafting Committee and was particularly of opinion that no provision relating to police measures such as Japanese demanded could be inserted in resolution. It authorised Drafting Committee to draft for consideration a formula that might be employed in President’s declaration, providing that any such measures should be immediately notified and that neutral observer should if possible be invited to be present.

It was agreed that Drafting Committee should meet tomorrow morning to redraft resolution on basis of discussions with the parties and to begin drafting of President’s declaration.

(To Nanking.) Please repeat to Tokyo. Repeated to Nanking.

¹ No. 803.

² No. 805.

³ Not printed.

No. 808

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received December 1, 11.30 a.m.)

No. 40¹ Telegraphic [F 7135/1391/10]

TOKYO, *December 1, 1931, 12.55 p.m.*

My telegram No. 39.²

French Ambassador made official representations yesterday and did all he could to persuade Minister for Foreign Affairs to incline to help neutral observers, without succeeding. I agree with French Ambassador that objection comes from military and that we shall not overcome it.

A serious difficulty will eventually arise over Chinese administration of zone when Chinese have evacuated. Japanese will certainly refuse to have anything to do with Young Marshal.

Repeated to Nanking.

¹ This telegram was addressed to Paris as No. 40 on December 1, and was repeated thence unnumbered by bag to the Foreign Office, where it was received on December 2.

² No. 806.

No. 809

Lord Tyrrell (Paris) to Sir J. Simon (Received December 2)

No. 189 L.N. Telegraphic: by bag [F 7140/1391/10]

PARIS, *December 1, 1931*

Following from Mr. Cadogan:—

The Drafting Committee prepared today revised draft resolution embodying amendments adopted as the result of consultation with the parties together with interpretative declaration to be read by the President before the adoption of the Resolution. Both these documents were approved this evening by the twelve members of the Council and will be at once submitted to the parties. Text of both by bag tonight.¹

¹ The text of the draft resolution (not printed) was the same as that printed in *League of Nations Official Journal*, December 1931, pp. 2374–5, except that: (a) the phrase ‘which remains seized of the question’ occurred in paragraph (3) of the present draft, whereas the corresponding phrase occurred in paragraph (6) of the final text; (b) paragraph (6) of the present draft was preceded by a paragraph which read: ‘Should the undertakings given by the two Parties according to the resolution of September 30th not have been carried out by the time of the arrival of the Commission, the Commission shall as speedily as possible report to the Council on the situation with such recommendations as it may think fit.’

The provisional English text of the draft statement by the President read as follows:

‘It will be observed that the resolution which is before you provides for action on two separate lines: (1) to put an end to the immediate threat to peace; (2) to facilitate the final solution of existing causes of dispute between the two countries.

‘The Council was glad to find during its present sittings that an enquiry into the questions outstanding between China and Japan, in itself desirable, would be acceptable to the

It is now proposed that Commission of Enquiry should consist of five members. Principal difficulty is expected to arise over the passage in the declaration regarding police measures against bandits. Mr. Ito has already raised difficulties over passage, which was communicated to him last night, providing for invitation to neutral observers to be present at such operations.

Parties. The Council therefore welcomed the proposal to establish a Commission which was brought before it on November 21st. The final paragraph of the resolution provides for the appointment and functioning of such a Commission.

'I shall now make certain comments on the resolution paragraph by paragraph.

'Paragraph 1. This paragraph reaffirms the resolution unanimously adopted by the Council on September 30th and, in particular, insists on the withdrawal of the Japanese troops to the Railway Zone, under the conditions described in that Resolution, as speedily as possible.

'The Council attaches the utmost importance to this provision. The presence upon Chinese territory of foreign troops, outside the Railway Zone, has created an abnormal situation which should in the interests of peace be remedied without delay. The Council is persuaded that the two Governments will set themselves to the speedy and complete fulfilment of the engagements which they assumed on September 30th.

'Paragraph 2. It is an unfortunate fact that since the last meeting of the Council events have occurred which have seriously aggravated the situation, and have given rise to legitimate apprehension. It is indispensable and urgent to abstain from further military operations and from all other action likely to aggravate a situation already extremely critical.

'There is, however, one point which requires elucidation. In the special conditions prevailing at present in Manchuria the administrative machinery of government is seriously compromised. There are districts in which many bandits and lawless bands endanger the lives and property of the inhabitants, some of whom are Japanese subjects. In these circumstances it has been strongly pressed upon the Council that it may prove necessary as an exceptional measure for the Japanese Government during the period before evacuation is complete to take, if such a danger renders it necessary, police measures sufficient to provide directly for the safety of its subjects. In the very exceptional conditions that prevail the Council could not take upon itself to rule out altogether action of that kind. Nevertheless, and even assuming that such action is confined strictly to police purposes, it is liable to lead to grave misconception and the increase of tension between the two countries concerned. I am glad therefore to learn that both Governments are ready to give an opportunity to neutral observers to accompany any operation of the kind. This is really only the special application to this case of the general invitation given to neutral observers by both Governments.

'Paragraph 4. Under paragraph 4 the members of the Council other than the Parties are requested to continue to furnish the Council with information received from their representatives on the spot.

'Such information having proved of high value in the past, the Powers who have the possibility of sending such representatives to various places in Manchuria have agreed to do all that is possible to continue and to improve the present system.

'For this purpose these Powers will keep in touch with the two Parties so that the latter may, should they so desire, indicate to them localities to which they would desire the despatch of such representatives.

'Paragraph 5 provides for the institution of a Commission of Enquiry. Subject to its purely advisory character, the terms of reference of the Commission are wide. In principle no question affecting the international relations of China and Japan which it feels called upon to study will be excluded; each of the two Governments will have the right to request the Commission to consider any question the examination of which it particularly desires. The Commission will have full discretion to determine the questions upon which it will report to the Council, and will have power to make interim reports when desirable.

'It is specially provided that "should the two Parties initiate any negotiations, these

Lord Cecil has represented strongly to Mr. Matsudaira absolute necessity for some such safeguard. Chinese Delegate has not yet seen this passage.

Drafting Committee will prepare tomorrow further declaration which will be read by President after adoption of Resolution and not submitted to parties. This will contain general discussion of the obligations of members of the League, and insist on undesirability of the present Japanese action being allowed to become a precedent. Lord Cecil will endeavour to incorporate text on lines approved by you.

Repeated to Nanking No. 21 (please repeat to Tokyo No. 18).

would not fall within the scope of the terms of reference of the Commission, nor would it be within the competence of the Commission to interfere with the military arrangements of either Party". This latter provision does not limit in any way its right of investigation. It is also clear that the Commission will enjoy full liberty of movement in order to obtain the information it may require for its report. [Note in original: "(To be drafted later.) Method of selection of members. Necessity of selecting members of high standing. Experts. Utilisation of Technical Organisations."]

No. 810

Lord Tyrrell (Paris) to Sir J. Simon (Received December 3)

No. 191 L.N. Telegraphic: by bag [F 7176/1391/10]

PARIS, December 2, 1931

Following from Mr. Carr:—

Members of the Council without the parties met this evening to consider proposal for neutral zone at Chinchow.

M. Briand explained that Japanese Government accepted proposal on the following basis:

- (a) withdrawal of Chinese forces from Chinchow behind the Great Wall,
- (b) maintenance of Chinese administration and police in evacuated zone,
- (c) abstention from employment of irregular forces,
- (d) immediate negotiations between Chinese authorities and local Japanese representatives on following points:
 - (1) delimitation of zone to be evacuated,
 - (2) fixing of number of Chinese police forces to be retained in evacuated area,
 - (3) other details of carrying out of the agreement.

Chinese delegate was invited to attend and explain attitude of his Government. Following were his principal observations:

1. He expressed desire to know in advance approximate limit of zone to be evacuated. No precision has yet been obtained from Japanese Delegation on this point.

2. He insisted on supervision of agreement by neutral observers. M. Briand replied that Japanese Government had categorically refused to allow neutral representatives to participate in the agreement, but had agreed to give formal

undertaking to the Council not to re-enter the evacuated zone except in case of unforeseen and grave circumstances rendering intervention necessary. Moreover, there was no intention of withdrawing the neutral observers from Chinchow.

3. He asked what guarantee there was that Japanese Government would not once more take the law into their own hands in the event of a disagreement arising as to unforeseen circumstances justifying intervention. M. Briand pointed out that Japanese Government would have given an undertaking to the Council, and it could not be supposed that they would lightly violate it.

Chinese delegate, who was pressed by M. Briand and Lord Cecil to give favourable consideration to the proposal, promised to refer to his Government.¹

Repeated to Nanking (Nanking please repeat to Tokyo).

¹ In his immediately following telegram Mr. Carr briefly reported on Dr. Sze's suggestion regarding the neutralization of Tientsin, also recorded in *Foreign Relations of the United States, 1931*, vol. iii, p. 616.

No. 811

Lord Tyrrell (Paris) to Sir M. Lampson (Nanking)

No. 25¹ Telegraphic [F 7206/1391/10]

PARIS, December 3, 1931

Following for Dr. Rajchman from Sir E. Drummond:—

I am much disturbed by your telegram as to Chinchow² as if Chinese counter-proposals represent final Chinese reply fear negotiations not only on this point but also on resolution and declaration which were progressing favourably will break down. Please remember that the suggestion as to the withdrawal of the Chinese troops to Great Wall came from Chinese side and that China cannot now withdraw it without being suspected of lack of good faith.

In Dr. Koo's original suggestion guarantees were to be given by Japan to three Powers. Japan now gives guarantee to Council. Powers who have representatives available could be asked to send them to any points in the neutral zone where Chinese Government consider their presence desirable according to the extension of the system [of] neutral observers provided for in President's declaration. But please realise that it is impossible to obtain

¹ This telegram was addressed to Nanking as No. 25 and was repeated as No. 195 L.N. to the Foreign Office, where it was received on December 4 at 8.30 a.m.

² Not printed. This telegram was transmitted in Sir M. Lampson's telegram No. 364 Tour of December 2. Dr. Rajchman stated: 'Chinchow situation is regarded here as crucial as it is widely believed that Japan desires to demilitarise Manchuria . . .'. He then referred to the Chinese counter-proposals put forward by Dr. Sze on December 2 (see No. 810) and commented: 'Decision to present above counter-proposals based on neutral participation required unusual political courage and I feel certain that pressure for further concessions would be resisted and I am confident will not be necessary after study of Chinese plan of which an important part is plan for neutralization of Tientsin.'

Japanese consent to proposal that neutral zone should be fixed by neutral representatives. Further efforts in this respect are useless. At the same time Japanese have indicated clearly that zone will be formed by territory from which Chinese military forces will be withdrawn under the plan and Council is endeavouring to secure more information on this point.

As to Tientsin Members of the Council feel that this is a matter which should be treated locally and in particular by the four Powers.³ Council is clearly unwilling to become involved in any executive responsibilities.

It seems to me that China is now faced with crucial decision as to whether she will agree to direct negotiations between local Chinese and Japanese representatives on exact extent of zone and number of Chinese forces to be used as police therein and secure the great general advantages offered by the Resolution and Declaration or whether she will insist on the zone being fixed by neutral representatives, and break on the point with the resulting situation described in my telegram of 30th November.⁴

I have done all I can but we must face facts as they are.

Council is getting impatient with continued delays since they have already sat nearly three weeks.⁵

³ The reference is presumably to Great Britain, France, Italy, and Japan, who had Concessions at Tientsin.

⁴ The reference is possibly to a message to Dr. Rajchman, transmitted in Lord Tyrrell's telegram No. 19 to Nanking of December 1, in which Sir E. Drummond referred to a conversation with Dr. Sze concerning the situation at Chinchow, and discussed the Japanese proposal (d) recorded in No. 810. Sir E. Drummond concluded: 'In view of excited state of Japanese military elements in Manchuria some such arrangement seems essential if future Japanese advance on Chinchow region is to be avoided.'

⁵ Dr. Rajchman replied in a telegram of December 5 (not printed) in which he recapitulated the course of recent negotiations, and commented: 'These are the facts which we must face as League's servants. But please remember the paramount importance of moral gesture throughout the Far East. Neither Government nor public opinion which counts expects, after disillusionment of last two months, the League to apply now sanctions but simply show moral courage by recording condemnation of breaches of the Covenant. The example of October 24 still stands. Public revulsion against the Government negotiating on the basis of proposals as explained in your telegram of December 3 is most violent.'

No. 812

Lord Tyrrell (Paris) to Sir J. Simon (Received December 5, 9.0 a.m.)

No. 196 L.N. Telegraphic [F 7254/1391/10]

PARIS, December 4, 1931, 11.30 p.m.

Following from Cadogan.

Twelve members of the Council¹ considered Chinchow situation this evening. They decided to ask Japanese Government to indicate in general terms what they proposed should be the limit of neutral zone details of which were to be settled by direct negotiations. Provided Japanese reply

¹ i.e. the members of the Council other than the Chinese and Japanese delegates.

was satisfactory Council would be prepared to press Chinese Government to accept proposal.²

Repeated to Nanking for Tokyo.

² A fuller report of this meeting was sent to the Foreign Office in the United Kingdom Delegate's despatch No. 158 of December 5 (not printed). This report stated in particular: 'M. Briand said that, so far as he could see, the alternatives were now two. Either the Council must abandon the whole project of a neutral zone or they must press the Chinese Government to accept the Japanese terms.

'Lord Cecil thought that there could be no question of dropping the proposal, since its abandonment would reopen the danger of a fresh Japanese aggression. He thought that the Council should press the Chinese to accept, provided the Japanese Government gave some definition of what they conceived the neutral zone to be.

'The German and Spanish Delegates supported Lord Cecil in his attitude.'

No. 813

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

No. 45¹ Telegraphic [F 7276/1391/10]

TOKYO, December 4, 1931

Although I recognise fully the great difficulties of the Council, I venture to deprecate spending much time over settling duties of observers and the Commission. No real progress will be made until Japanese and Chinese begin negotiating both regarding neutral zone and other matters and I am getting anxious lest Japanese military believing Chinese to have regained confidence enough to procrastinate indefinitely, again take the bit between their teeth. The recall of Japanese troops from their advance on Chinchow was a great victory for the Government, but it must not be supposed that military have definitely lost the upper hand. The rumours now being published in the press about Chinese preparations for attack on Japanese troops are ominous.

Repeated to Nanking.

¹ This telegram was addressed to Paris as No. 45, and was repeated thence unnumbered to the Foreign Office, where it was received on December 5 at 12.45 p.m.

No. 814

Sir M. Lampson (Nanking) to Sir J. Simon¹

(Received December 5, 12.45 p.m.)

No. 366 Tour: Telegraphic [F 7284/1391/10]

NANKING, December 4, 1931

Paris telegram No. 25 to me² and previous correspondence.

I have hesitated to intervene before but as this question may assume serious aspect the following facts should stand on record.

¹ This telegram was addressed to the Foreign Office through Paris.

² No. 811.

2. A *conditional and tentative* 'sounding out' of our three Governments by Dr. Koo regarding possible evacuation of Chinchow on certain guarantees in view of imminent Japanese attack became known, transformed (? by French Ambassador at Tokyo, to judge by press report at the time) into an alleged definite offer to evacuate and was eventually sponsored by the Council with certain safeguards (now apparently to be dropped). To this no direct answer has been returned by British or French Government[s] but United States Government replied in favour but advising dropping of idea of guarantees. Meanwhile attack on Chinchow had been averted. And China now finds herself faced by alternative of either (a) demilitarising all disaffected Manchuria to the Great Wall or (b) incurring charge by Japan of bad faith with dangerous consequences. Thus instead of evacuation of Japanese troops prescribed in the Council's resolution of September 30 and October 24 we see the paradox of Chinese evacuation sponsored by the League. Doubtless this may ultimately well prove beneficial; but it is driving China hard and we should make allowance for the embarrassing predicament in which she has been placed.

3. Meanwhile Dr. Koo is being criticised for having been badly bluffed and Japanese Minister who has just arrived tells me that he is pressing him 'very definitely' to agree to prompt evacuation failing which there is imminent danger of grave incident.

Repeated to Peking.

No. 815

Lord Tyrrell (Paris) to Sir F. Lindley (Tokyo)

No. 23¹ Telegraphic [F 7286/1391/10]

PARIS, December 4, 1931

Following for Captain Walters from Sir E. Drummond.

Three main points seem likely still to cause difficulty:

(a) On Chinese side direct negotiations for fixing neutral zone and number of Chinese forces for maintenance of order therein.

(b) On Japanese side, firstly passage in resolution requiring Commission to report immediately on situation if both sides have not fulfilled engagements taken under September 30 resolution; secondly passage regarding bandits in President's declaration.

As to (a), we will do all we can to obtain Chinese consent to direct negotiations provided Japanese Government will inform Council of rough limits of zone and make declaration that Japanese troops will not enter it once direct negotiations are begun but if we secure it Japanese ought to help us in (b).

The first point refers to engagements taken by both sides on September 30, therefore both security of Japanese lives and property and withdrawal of

¹ This telegram was addressed to Tokyo as No. 23 and was repeated as No. 197 L.N. to the Foreign Office, where it was received on December 5 at 12.45 a.m.

troops would be reported on by the Commission. The Commission would in any case have the right, and indeed the duty, of making such a report and therefore I sincerely hope Japanese Government will not object to the passage which makes it far easier for China to accept resolution as it stands.

Two. Bandits. Japanese Government ought not to ask the Council even indirectly to approve in perpetuity what is *de jure* a violation of treaty rights.

The *de facto* necessity of such action and practice is generally recognised and I feel that suppression of passage in President's declaration and a statement by Japanese delegate of Japan's intentions in this respect, which could be noted by Council, would be greatly preferable and would strengthen Japan's own position and interests.

Council are becoming impatient after three weeks continuous session and matter ought now to be dealt with speedily.

No. 816

Sir J. Simon to Sir R. Graham (Rome)

No. 1387 [W 13796/47/98]

FOREIGN OFFICE, *December 4, 1931*

Sir,

The Italian Ambassador called this morning to say good-bye before starting for his holiday. He has been laid up with neuritis and is going to Sicily. He hopes to be away for two months. He called attention to recent articles in 'The Times' which hinted at the postponement of the Disarmament Conference, and expressed his personal view that there was much to be said for this course. He thought it probable that several of the Governments concerned, in view of the preoccupations of Europe in economic and financial problems, would favour postponement, though no one liked to say so. I said I was sure he would understand that the articles in 'The Times' were not an indication of any official attitude. I appreciated what he had said, but much might depend on whether the conference was regarded as confined to technical questions or whether wider political considerations came under review. I appreciated that he was only expressing to me his personal view on the subject of postponement, but if he was able to let me know the view of his Government we should be much interested to learn it.

2. One of the considerations which he mentioned as likely, in his personal view, to interfere with the success of any Disarmament Conference next February was the long-drawn-out discussion about Manchuria before the Council of the League at Paris. I mentioned the suggestion that had been made that the proposed League Commission of Investigation should include an Italian member,¹ and said that, if this was the wish of Italy, His Majesty's Government raised no objection whatever. The commission, I thought,

¹ The Italian Chargé d'Affaires had called at the Foreign Office on November 26 to request the support of His Majesty's Government for this proposal.

should be a small one—five members were enough. He said he had heard that, in addition to an American, an Englishman, a Frenchman and an Italian, it was suggested that the fifth place might be taken either by a Dutchman or a Belgian. I told him that I had heard nothing of this, and I made no comment.

I am, &c.,

JOHN SIMON

No. 817

United Kingdom Delegate (Paris) to Sir J. Simon (Received December 7)

No. 160 [F 7307/1391/10]

PARIS, December 5, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copies of the record¹ of a meeting of the Drafting Committee of the Council of the League of Nations on December 5 when the Japanese observations on the Draft Resolution and on the proposed declaration by the President were discussed.

ENCLOSURE 1 IN No. 817

PARIS, December 5, 1931

The Drafting Committee met this morning to discuss with Mr. Ito the Japanese observations on the draft resolution and proposed declaration by the President.²

Mr. Ito said that his Government could not accept the last paragraph of paragraph 5 of the draft resolution, which provided that should the undertakings given by the Parties in the resolution of September 30th not have been carried out by the time of the arrival of the Commission, the Commission should report to the Council on the situation with such recommendations as it might think fit. The Japanese Government felt that the implications of this formula were equivalent to fixing a date for evacuation, and this the Japanese Government had always rejected in principle. He also thought that the proposal that the Commission should make recommendations about evacuation was contradictory to the stipulation that the Commission should not intervene in negotiations between the Parties.

Lord Cecil said that he could not quite understand the objections of the Japanese Government. They had always recognised that the Commission could report on the question of evacuation. If the difficulty arose from the words 'with such recommendations as it may think fit', he personally would see no objection to their omission. It was obvious that all the Commission could do was to report to the Council.

M. Léger³ argued that the formula did not imply any fixing of a date.

¹ This record was made by the British representatives for the use of His Majesty's Government.

² See No. 809, note 1.

³ Director of Political and Commercial Affairs in the French Ministry of Foreign Affairs.

The Commission would have to discuss security as well as evacuation, and there was therefore no new principle in the proposal. He thought that the objections of the Japanese Government must be to the wording rather than to the substance of the paragraph, and he asked whether Mr. Ito could not suggest some new draft.

M. de Madariaga and M. Colban both thought that it was essential that this paragraph, or something equivalent to it, should be retained in the resolution.

Lord Cecil suggested a redraft of the clauses providing that, if the obligations under the resolution of September 30th had not been carried out when the Commission arrived, it should be one of the first duties of the Commission to make a report to the Council on the subject, and omitting any reference to a recommendation, but Mr. Ito seemed sceptical of the acceptance of this by his Government.

Lord Cecil said that he was at a loss to understand the attitude of the Japanese Government. If they rejected this or some such formula, the apparent conclusion was that they objected to any discussion of the question of evacuation by the Commission. But this was out of the question and the Japanese Government had already said that they had no objection to the Commission discussing the matter. He thought that if some agreement could not be reached on this formula the only course would be to have a public meeting and debate the matter openly.

Mr. Ito said that 36 years ago the Powers had intervened in a dispute between Japan and China over Manchuria and had compelled Japan to abandon a great part of her gains.⁴ Japanese public opinion was therefore very sensitive on this point, and any reference to intervention by the Powers excited Japanese opinion. He asked finally whether it was essential that the formula in question should appear in the resolution. Could it not be relegated to the Declaration of the President?

Lord Cecil said that this point had not been explicitly considered by his colleagues, but he thought that it would be better to place it in the resolution if possible.

Mr. Ito undertook to report to his Delegation what had passed.

The Committee then turned to the consideration of the draft Declaration of the President and Mr. Ito submitted an alternative text (copy annexed).

The Committee went through the proposed Japanese amendments paragraph by paragraph and some of the Japanese amendments appeared to be merely questions of drafting which would not give rise to much difficulty. Some of them were, however, more important.

In paragraph 1 Mr. Ito desired the omission of the first two sentences of the second paragraph. The Committee felt that the first sentence, which states that the Council attaches the utmost importance to this provision (i.e. evacuation), must be retained, M. de Madariaga pointing out that it

⁴ See Appendix II.

had originally stood in the Resolution and had been transferred to the Declaration in order to meet Mr. Ito. It was agreed that there was no great objection to the omission of the second paragraph, which referred to the abnormal situation created by the presence on Chinese territory of foreign troops.

The principal difficulty arose over the second paragraph of paragraph 2, relating to the reservation to the Japanese Government of powers to deal with bandits. Here Mr. Ito submitted a re-draft which contained no mention of the presence of neutral observers on such occasions and gave Japanese forces powers to take 'such action as may be rendered necessary to provide directly for the protection of the lives and property of Japanese subjects'. Mr. Ito explained that action against bandits was taken in the interests of the population, who welcomed such action. It was merely a continuation of action which had been taken by the Japanese troops for many years past in the immediate vicinity of the railway zone. In most cases it would be practically impossible to invite neutral observers to participate in such minor operations.

Lord Cecil said that, while he understood the difficulty on this latter point, he did not think the Council could possibly accept the text proposed by Mr. Ito, which would give discretion to the Japanese forces to occupy any point in Manchuria where they could maintain that Japanese lives and property were threatened by bandits. If no other solution were possible, he would suggest that the whole paragraph should be omitted from the Declaration of the President and that the Japanese Delegate should at the public meeting make a reservation on behalf of his Government explaining the necessity of action against bandits and the limits within which it would be confined. The President could then reply on behalf of the other members of the Council explaining within what limits such action appeared reasonable and legitimate.

M. Léger said that Mr. Ito had referred to action taken in years past in the neighbourhood of the railway zone. Was he to understand that the action contemplated under the terms of the present Declaration was to apply only to the railway zone or in all parts of Manchuria?

Mr. Ito said that in normal times, i.e. after the withdrawal of the Japanese troops into the zone, such action would be confined as heretofore to the neighbourhood of the zone. But while Japanese troops were in occupation of other points of Manchuria, such action would necessarily be extended to such other points. He promised to consider the suggestion made by Lord Cecil but he must add that his Government had appeared to attach a particular importance to the insertion of this point in the Declaration of the President.

In paragraph 4 Mr. Ito proposed that the words 'in China' should be substituted for 'in Manchuria'. The Committee considered that this was unacceptable but that the words 'in Manchuria' might be omitted, leaving the place where the observers might operate vague and indefinite. Mr. Ito

also wished to omit the words 'and to improve' in the clause defining the work of the observers. The Drafting Committee considered that this was unacceptable.

Mr. Ito promised to submit the observations of the Drafting Committee to his Delegation and to let the Committee know, if possible later in the day, whether they were able to modify their attitude on the points discussed.

ENCLOSURE 2 IN No. 817

Preliminary Draft Statement by the President

PARIS, December 4, 1931

It will be observed that the resolution which is before you provides for action on two separate lines: (1) to put an end to the immediate threat to peace; (2) to facilitate the final solution of existing causes of dispute between the two countries.

The Council was glad to find during its present sittings that an enquiry into *the circumstances which tend to disturb the relations* between China and Japan, in itself desirable, would be acceptable to the Parties. The Council therefore welcomed the proposal to establish a Commission which was brought before it on November 21st. The final paragraph of the resolution provides for the appointment and functioning of such a Commission.

I shall now make certain comments on the resolution paragraph by paragraph.

Paragraph 1. This paragraph reaffirms the resolution unanimously adopted by the Council on September 30th, *laying particular stress on the withdrawal of the Japanese troops within the railway zone on the conditions described therein.*

The Council is persuaded that the two Governments will set themselves to the speedy and complete fulfilment of the engagements which they assumed on September 30th.

Paragraph 2. It is an unfortunate fact that since the last meeting of the Council events have occurred which have seriously aggravated the situation, and have given rise to legitimate apprehension. It is indispensable and urgent to abstain from *any initiative which may lead to further fighting* and from all other action likely to aggravate the situation.

There is, however, one point which requires elucidation. In the special conditions prevailing at present in Manchuria as a result of recent events the administrative machinery of government is seriously compromised. There are districts in which many bandits and lawless elements endanger the lives and property of the inhabitants, some of whom are Japanese subjects. *In these circumstances, it is well understood that the Resolution is not intended to preclude the Japanese forces from taking such action as may be rendered necessary to provide directly for the protection of the lives and property of the Japanese subjects against the dangers of bandits and lawless elements. Such action is admittedly an exceptional measure, pending the restoration of normal conditions in Manchuria.*

Paragraph 4. Under paragraph 4, the members of the Council other than the Parties are requested to continue to furnish the Council with information received from their representatives on the spot.

Such information having proved of high value in the past, the Powers who have the possibility of sending such representatives to various places in *China* are asked to do all that is possible to continue the present system.

Paragraph 5 provides for the institution of a Commission of Enquiry. Subject to its purely advisory character, the terms of reference of the Commission are wide. (In principle no question affecting international relations which it feels called upon to study will be excluded):⁵ each of the two Governments will have the right to request the Commission to consider any question the examination of which it particularly desires. The Commission will have full discretion to determine the questions upon which it will report to the Council, and will have power to make interim reports when desirable.

It is specially provided that 'should the two Parties initiate any negotiations, these would not fall within the scope of the terms of reference of the Commission, nor would it be within the competence of the Commission to interfere with the military arrangements of either Party'. This latter provision does not limit in any way its *faculty* of investigation. It is also clear that the Commission will enjoy full liberty of movement in order to obtain the information it may require for its reports.

⁵ *Note in the original: 'the alternative text: In principle no question which it feels called upon to study will be excluded provided that the question relates to any circumstances [sic] which, affecting international relations, threatens to disturb peace between China and Japan, or the good understanding between them upon which peace depends.'*

No. 818

Lord Tyrrell (Paris) to Sir J. Simon (Received December 6, 5.45 p.m.)

No. 198 L.N. Telegraphic [F 7287/1391/10]

PARIS, December 6, 1931, 2.50 p.m.

Following from Lord Cecil:

Sir M. Lampson's telegram No. 366.¹

1. In the evening of November 24 Dr. Koo put forward in Nanking tentative and conditional proposal reported in Sir M. Lampson's telegram No. 338.² On same day Dr. Sze informed Lord Cecil that withdrawal of Chinese troops would be impossible unless neutral troops could be brought into Chinchow area.³ On November 25 he addressed a note to Secretary-General repeating proposal that neutral zone should be occupied by neutral detachments⁴ and on November 26 he communicated copy of telegram from his Government containing same suggestion. Discussion at Council should have made it clear to him that there would be no possibility of complying with this

¹ No. 814.

² No. 779.

³ See No. 774.

⁴ See No. 778, note 2.

suggestion. I have not seen text of instructions sent by M. Briand to French Ambassador at Tokyo but Sir F. Lindley reported in his telegrams to Paris Nos. 26 and 29⁵ that French Ambassador had urged Japanese Minister for Foreign Affairs to accept 'Chinese proposal' and that Japanese Government had officially accepted it on November 27.

2. It seems clear that owing to a misunderstanding Japanese Government accepted what they believed to be a firm offer and immediately carried out their part of the bargain. Attack on Chinchow was stopped and Japanese troops withdrawn. Chinese Government have therefore no real ground for complaint. Japanese Government are willing to give an undertaking to Council that they will not send troops into evacuated zone. This is at least equivalent to guarantee suggested in Dr. Koo's original tentative proposal. Council are asking Japanese Government to define more precisely area covered by their proposed undertaking but China having already enjoyed benefit of supposed bargain would be well advised to withdraw her troops immediately. Delay would almost certainly be genuinely interpreted as bad faith and result might be most disastrous.

3. Dr. Sze has informed Council that Dr. Koo has suggested to Japanese Minister at Nanking that China should give an assurance that Chinese troops at Chinchow will not advance in the direction of Japanese forces. Dr. Sze has further . . . (Council)⁶ presented memorandum to Council⁷ setting forth results of deliberation of special diplomatic commission who now reject altogether the idea of neutral zone disclaim any intention to advance from Chinchow against Japanese forces but declare if Japanese advance Chinese will take appropriate measures of self-defence.

4. I fear effect of all this will inevitably be to give Japanese excuse of cavilling that their withdrawal was obtained by promise which Chinese never intended to carry out and that they will consider themselves free to take what action they desire against which Chinese measures of self-defence will avail little.

5. It seems most urgent that the Chinese Government should recognise realities, resist the temptation to score a point on paper and withdraw their troops in accordance with Dr. Koo's own suggestion of November 24 and should enter on discussion with Japanese since they have rejected Council's help.

6. Would you be disposed to instruct His Majesty's Minister, Nanking, to make representations in this sense.

Repeated to Nanking for Minister.

⁵ Nos. 798 and 796.

⁶ The text is here uncertain.

⁷ This memorandum is printed in *Foreign Relations of the United States 1931*, vol. iii, pp. 621-2.

Lord Tyrrell (Paris) to Sir M. Lampson (Nanking)

No. 28¹ Telegraphic [F 7316/1391/10]

PARIS, December 6, 1931

Following for Dr. Rajchman from Sir Eric Drummond.

It would be useless to discuss telegraphically the history of the Koo proposal, but there is no doubt that he mentioned to the representatives of the three Powers the withdrawal of Chinese troops to the Wall if guarantees were given to the Powers against the penetration of Japanese troops into the zone thus created. Dr. Koo's suggestion was brought to the notice of the Japanese Minister for Foreign Affairs and immediately accepted by him in principle. The League, which up to then had only supported the plan of action by neutral representatives in order to avoid a clash between the Japanese and Chinese forces which appeared to be imminent, and had refused to recommend the withdrawal referred to above, thus found itself faced with a Chinese proposal for withdrawal accepted in principle and genuinely by the Japanese Government. The clash was avoided by the withdrawal of Japanese troops, but the future danger remains, and as the Koo proposal was utilised by the Japanese Minister for Foreign Affairs to secure the withdrawal, its cancellation must greatly increase such danger.

The general view here is that China can only gain by the establishment of a neutral zone under Chinese administration and police forces into which, by engagement before the Council, Japanese troops would not penetrate even if the price is withdrawal to the Wall of the main body of Chinese troops. Otherwise, Japanese forces will probably find grounds of self-defence to occupy the Chinchow district as they have done in the North, but clearly the Chinese Government must take the responsibility for the final decision.

I cannot say whether the Twelve will or will not recommend direct negotiations between the Chinese and Japanese Governments on the zone subject. This depends on certain information for which the Japanese Government has been asked. The adoption of the main resolution and declaration has not been made dependent by the Japanese on the withdrawal and negotiations are proceeding independently. In these circumstances I cannot in any way agree with the assumptions made in the last paragraph of your telegram.²

Repeated to Foreign Office by bag No. 199 L.N.

¹ This telegram was addressed to Nanking as No. 28 on November 6 and was repeated on December 7 as No. 199 L.N. to the Foreign Office, where it was received on December 8 at 9.0 a.m.

² Cf. No. 811, note 5.

No. 820

Sir M. Lampson (Nanking) to Sir J. Simon¹
(Received December 8, 9.0 a.m.)

No. 371 Tour: Telegraphic [F 7314/1391/10]

NANKING, December 7, 1931, 6.30 p.m.

My telegram No. 369.²

Student agitation is assuming dangerous proportions. During the past two days mobs of students have been demonstrating in Nanking and besieging the Waichiaopu in protest against 'withdrawal of Chinese troops from Chinese soil' and against direct negotiations in any shape or form until Japanese troops have been withdrawn and *status quo ante* restored. Railway traffic between Nanking-Peking-Tientsin and Shanghai has been blocked and disorganised by student bands. On December 5 students came into conflict with police and troops in Nanking and on the night of December 6 numbers were deported by rail towards Hsuehchow under military escort. Agitation is undoubtedly genuine outburst which no Chinese Government is strong enough to withstand and the situation recalls anti-Japanese student movement following on period of Japanese aggression during the Great War which led via *rapprochement* with Russia to rise of Chinese nationalism.

Repeated to Peking and Tokyo.

¹ This telegram was addressed to the Foreign Office through Paris.

² Not printed. This telegram of December 6 reported that Dr. Koo had tendered his resignation on December 5 owing to adverse criticism of the proposal that Chinese troops should be withdrawn to Shanhaikuan (see No. 779), and that it was understood that Dr. Sze had also resigned. The Chinese Government had not yet accepted either resignation.

No. 821

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

Unnumbered Telegraphic [F 7315/1391/10]

TOKYO, December 7, 1931, 3.5 p.m.

Following for Sir E. Drummond from Walters No. 48:—

Begins:—

Your telegram of December 4.²

I discussed three points with Vice-Minister for Foreign Affairs this morning.

Point 1. He said information as to limits proposed had been sent at first to Japanese delegate for communication to his colleagues. As to negotiations Chinese attitude is reported to be now entirely negative though no official report has come from Nanking.

¹ This telegram was addressed to Paris unnumbered on December 7, and was repeated thence unnumbered to the Foreign Office, where it was received on December 8 at 9.0 a.m.

² See No. 815.

Point 2. He appeared very hopeful that this would be settled on basis of compromise proposals now being discussed in Paris.

Point 3. Suggestion that Japanese statement could be noted by the Council was new to him and he seemed to think it worth considering.

I remarked that obviously much depended on wording of statement. External signs all seem to point to imminent military action against Chinchow unless Chinese withdraw promptly.

No. 822

Sir J. Simon to Sir M. Lampson (Nanking)

No. 169 Tour: Telegraphic [F 7287/1391/10]

FOREIGN OFFICE, *December 7, 1931, 9.45 p.m.*

Paris telegram No. 198.¹

Lord Cecil's observations appear to me to be fully justified and I think Chinese Government should be pressed as he suggests. But I am not willing to act alone. If your French colleague receives similar instructions you should act with him in sense suggested.²

Repeated to Paris.

¹ No. 818.

² In this connexion Sir J. Simon stated in his telegram No. 326 of December 8 to Paris: 'Following for Lord Cecil: I should prefer to be assured also of United States co-operation. Would you sound General Dawes? French co-operation seems to me essential.'

No. 823

Sir M. Lampson (Nanking) to Sir J. Simon¹

(Received December 8, 6.25 p.m.)

No. 373 Tour: Telegraphic [F 7350/1391/10]

NANKING, *December 7, 1931*

Paris telegram No. 198.²

Before issuing instructions to me to act as proposed (and I shall await your receipt of present telegram before doing so in any case) you may wish to know my conviction that to do so would (1) be quite useless, (2) saddle us in the contrary event with all the odium for the movement and possibly thus divert popular wrath for³ Nanking Government to Great Britain.

2. It is quite evident that League circles in Paris have absolutely no idea of white heat at which local passions here are now running. I hazard the view that in view of absurd position viz. that League is now sponsoring and

¹ This telegram was addressed to the Foreign Office through Paris.

² No. 818.

³ In another text of the telegram this word read 'from'.

even pressing Chinese evacuation of all South Manchuria as contrasted with their attitude on settlement of October 24, it would be far better from point of view of League's moral prestige to state frankly that they cannot do the impossible, e.g. check Japan and instead go on record with their formal view of rights and wrongs of the case on which they already stand committed—see general view recorded in my telegram No. 505 from Peking:⁴ paragraph 4. Otherwise I anticipate that China may quit the League and latter may find itself in a position hard to explain with any credit to itself and with a most unsavoury precedent established. This is no partisan view but what I honestly and strongly believe to be the right course in the interest of the League and of all that we have strove for prevention of war.⁵

3. Let China and Japan then face the issue squarely with weapons of physical force and economic pressure against one another. Cards are not all in Japan's hands (even Japanese Minister admits this) and to lose 38 per cent. of her trade may well bring industrial trouble upon her more quickly than she anticipates.⁶

Repeated to Peking and Tokyo.

⁴ No. 603.

⁵ Another text here read: '... we have striven for—prevention of war.'

⁶ Sir F. Lindley commented as follows on this paragraph in his telegram No. 51 to Paris of December 9: 'I doubt if Japan will remain passive for long if boycott continues. Everything points to her tightening the screw until she secures what she wants both in China and Manchuria and alleviation of boycott policy.'

No. 824

United Kingdom Delegate (Paris) to Sir J. Simon (Received December 8)

No. 162 [F 7321/1391/10]

PARIS, December 7, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copies of the record¹ of a meeting of the Drafting Committee of the Council of the League of Nations on December 7 when the Draft Resolution and the proposed declaration by the President were discussed with the Chinese Delegate.

ENCLOSURE IN NO. 824

PARIS, December 7, 1931

The Drafting Committee had a short meeting with Dr. Sze this morning in order to sound him on the two points which were under discussion with the Japanese Delegation.

In the first place Dr. Sze was asked to consider whether the clause in the Resolution providing that the Commission should report on the execution of

¹ This record was made by the British representatives for the use of His Majesty's Government.

the Resolution of September the 30th if the obligations undertaken by the parties under that Resolution had not been carried out by the time of its arrival, might be transferred from the resolution to the declaration of the President if the Japanese Delegation would assent to that course. It was explained to him that the Japanese Delegation made great objections to the present clause in the resolution and that it might be preferable to transfer it, in something like its present form, to the declaration of the President rather than to accept a much weakened clause in the resolution itself.

Secondly, the committee communicated to Dr. Sze the suggestion which the Japanese Delegation were submitting to Tokyo that the so-called bandits clause in the declaration of the President should be omitted and replaced by a unilateral declaration of the Japanese Delegation.

It was made clear to Dr. Sze that these proposals were at present in a tentative state and had not received the approval of the Japanese Delegation. He undertook to give them both his consideration and inform the Drafting Committee of the result.

No. 825

United Kingdom Delegate (Paris) to Sir J. Simon

(Received December 9)

No. 164 [F 7354/1391/10]

PARIS, December 7, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copies of the record¹ of a meeting of the Drafting Committee of the Council of the League of Nations on December 7 respecting China and Japan.

ENCLOSURE IN No. 825

PARIS, December 7, 1931

Mr. Ito asked to see the Drafting Committee this evening in order to communicate his latest instructions from Tokyo.

He said that his Government had authorised him to put forward officially the formula, which he had suggested at the meeting of the Drafting Committee on December 6,² providing that the Council might instruct the Commission after its arrival in China to furnish information on the execution of the Resolution of September 30. The Drafting Committee discussed this formula at considerable length and came to the conclusion that it was un-

¹ This record was made by the British representatives for the use of His Majesty's Government.

² A record of the meeting of the Drafting Committee on December 6 was communicated to the Foreign Office under cover of the United Kingdom Delegate's despatch No. 161 (not printed). The Committee held a preliminary discussion on the two proposals put forward by Mr. Ito: see below.

acceptable particularly as Mr. Ito refused to commit himself to the view that a decision by the Council could be taken by a majority vote, or to permit of a stipulation to this effect being expressly inserted. Various alternative formulae were suggested but agreement was not reached. The members of the Drafting Committee then suggested that it would be preferable to retain the formula at present in the draft resolution but to transfer it to the declaration of the President, which might make it less difficult for the Japanese Government to accept it. Mr. Ito promised to consult his Government on this suggestion.

Mr. Ito submitted the following text of a unilateral declaration which the Japanese Delegation proposes to make on the subject of action against bandits if the paragraph relating to this matter were excluded from the declaration of the President:—

‘With regard to paragraph 2 of the Draft Resolution now before the Council, I am happy to accept it on behalf of the Japanese Government, on the understanding that this paragraph is not intended to preclude the Japanese forces from taking such action as may be rendered necessary to provide directly for the protection of the lives and property of Japanese subjects against the activities of bandits and lawless elements rampant in various parts of Manchuria. Such action is admittedly an exceptional measure called for by the special situation prevailing in Manchuria, and its necessity will naturally be obviated when normal conditions shall have been restored in that region.’

The Drafting Committee were unanimous in regarding this formula as far too wide in character and said that if such a declaration were made several members of the Council would undoubtedly feel themselves obliged, if not to object to it, at any rate to make a statement as to the manner in which they interpreted it. Mr. Ito appeared to think that his Government would object to any comments of a limitative character being made on the declaration. No decision was reached on this matter but an alternative formula satisfactory to the members of the Drafting Committee was submitted to Mr. Ito for his consideration.

No. 826

Lord Tyrrell (Paris) to Sir J. Simon (Received December 8, 9.0 a.m.)

No. 200 L.N. Telegraphic [F 7322/1391/10]

My telegram No. 196.¹

PARIS, December 8, 1931, 12.20 a.m.

Following from Lord Cecil:—

Members of Council without parties received today² *aide-mémoire*³ from Japanese delegate stating that Japanese Government would accept the

¹ No. 812.

² This telegram was drafted on December 7.

³ This *aide-mémoire* is printed in *Foreign Relations of the United States 1931*, vol. iii, p. 632.

Hsiaoling river as limit on Japanese side of proposed neutral zone. As this line would represent considerable advance on present Japanese positions and actually passes through Chinchow members of Council did not regard it as containing elements of equitable agreement and considered it impossible to recommend proposal, in accordance with wishes of Japanese delegation, to Chinese Government.

Considerable apprehension was expressed that this obviously unacceptable proposal was the prelude to a further Japanese advance on Chinchow which would deal disastrous blow at prestige of the League and wreck draft resolution on which agreement was in sight. It was decided that M. Briand should address note to Japanese delegate⁴ informing him that proposal could not be recommended to Chinese Government, reminding him of obligation not to aggravate situation undertaken by Japanese Government in resolution of September 30, and adding that it would be deplorable if prospects of agreement should be endangered at the last moment by fresh outbursts of fighting.

Text of this note is being telegraphed to French Ambassador at Tokyo and it was agreed to recommend that those members of Council who are represented at Tokyo by Ambassadors should instruct their representatives to associate themselves with their French colleague in making strong *démarche* to Japanese Government in the sense of note to Mr. Yoshizawa.

Situation seems to me very menacing and I shall be grateful if instructions could be sent without delay to His Majesty's Ambassador to use every effort to prevent military advance.

Repeated to Tokyo.

⁴ This note is printed *ibid.*, p. 633.

No. 827

Lord Tyrrell (Paris) to Sir J. Simon (Received December 8, 1.50 p.m.)

Unnumbered: Telegraphic [F 7335/1391/10]

PARIS, December 8, 1931, 12.0 noon

Following received from Tokyo No. 49 of December 7.

Begins.

Addressed to Paris No. 49 of December 7, repeated to Nanking.

My telegram No. 45.¹

Minister for Foreign Affairs informed me this afternoon that he did not consider the terms of proposed resolution offered any serious difficulties now from Japanese point of view.

Chinchow was different and he feared most serious situation would arise if the Chinese withdrew their offer to evacuate. He had with the greatest difficulty brought the military round to his point of view and he was now

¹ No. 813.

being accused of having been duped by Chinese. Could not Council bring pressure to bear on China to stick to her proposal and thus save the face of Chinese Government? He told me confidentially that Dr. Wellington Koo had suggested Japanese should propose withdrawal of Chinese troops obviously with desire to escape responsibility of suggestion to Chinese people. This seemed to point the way for Council. Minister for Foreign Affairs spoke with great gravity and admitted that he did not know how long he could control the military.

We then had a long discussion regarding limits of zone to be evacuated within which Japanese would not enter even to suppress bandits and I learned for the first time that Japanese proposed actual limit should be small river just east of Chinchow. I argued Liao river seemed natural eastern limit but quite failed to move Minister for Foreign Affairs who maintained that official proposal put forward by Chinese through French Ambassador defined area as 'from Chinchow to Shanhaikuan'. What was more important was that the area between the two rivers was very large and infested with bandits who could enter from the north where they had already done much damage to Japanese. Area west of Chinchow was small and cut off from the north. Minister for Foreign Affairs was more anxious than I have yet seen him and I could not escape from the impression that he feared something more serious than an attack on Chinchow.

Ends.

No. 828

Lord Tyrrell (Paris) to Sir J. Simon (Received December 9)

No. 203 L.N. Telegraphic: by bag [F 7348/1391/10]

PARIS, December 8, 1931

Your telegram No. 326.¹

Following from Lord Cecil:

I quite agree that in any case action by us alone would be undesirable. General Dawes is being kept fully informed of all that passes and if action should be necessary I will consult him. At present it would seem best to hold our hands.²

Repeated to Nanking No. 31.

¹ See No. 822, note 2.

² Sir J. Simon replied to this telegram and to No. 823 in his telegram No. 172 to Nanking (No. 329 to Paris) of December 9 which read: 'I agree that you should hold your hand.'

No. 829

Lord Tyrrell (Paris) to Sir J. Simon (Received December 9)

No. 204 L.N. Telegraphic: by bag [F 7349/1391/10]

PARIS, December 8, 1931

Following from Mr. Carr:

Twelve members of the Council decided to circulate this evening to the parties the Draft Resolution and the Declaration of the President in their latest form.

The last paragraph of section 5 of the resolution is omitted and transferred to the declaration. The words 'with such recommendation as they may think fit' are omitted. It is understood privately that the Japanese Delegation accept this.

The so-called bandits formula appears in the declaration in a modified form, which has not yet been accepted by either party.

There are no other changes of importance.

Public meeting will be held tomorrow afternoon at which parties will be asked to define their attitude to the resolution. It is still doubtful whether the parties will have received final instructions. If not, a further and final meeting will be necessary.

Repeated to Nanking. (Nanking please repeat to Tokyo.)

No. 830

Sir M. Lampson (Nanking) to Sir J. Simon¹

(Received December 8, 6.35 p.m.)

No. 374 Tour: Telegraphic [F 7351/1391/10]

NANKING, December 8, 1931

My telegram No. 373² has crossed your telegram No. 169.³

2. I discussed proposed action fully this morning with American and French Ministers. They strongly share my view of its unwisdom in existing condition here.

3. United States Minister is significantly confident that Japan will *not* attack Chinchow. But he believes Japanese are deliberately using Council as their tool to . . .⁴ Chinese out.⁵

¹ This telegram was addressed to the Foreign Office through Paris.

² No. 823.

³ No. 822.

⁴ The text is here uncertain.

⁵ Sir M. Lampson added in his telegram No. 379 Tour of the following day that Mr. Johnson had telegraphed in the same sense to Washington.

*Letter from Viscount Cecil (Paris) to Sir J. Simon**[Confidential/General/349/1]*

PARIS, December 8, 1931

My dear Simon,

I telephoned to you today to say that the public meeting was fixed for tomorrow in case you should care to come over. But I did not press you to do so because I do not really think there will be very much of importance to happen there. The only thing I felt was that one never knows what unexpected event may turn up and as the Cabinet are so nervous about our taking any initiative, I thought perhaps you would like to be personally in charge.

The settlement—if it is to be called such—which we hope to arrive at tomorrow might have been reached, as far as I can see, quite as easily a fortnight ago. There really is nothing fresh about it. And, in spite of Eric and Co., I still believe that if we had firmly insisted on a public meeting then, we should have brought things to a head within a day or two. Most of the intervening time has been wasted in fatuous interchanges of impossible proposals between the Japanese and Chinese, particularly the Japanese. What is much more disquieting is the threat of the Japanese soldiers to march on Chinchow. I believe it is pure militarism of the worst type and merely a desire to show their strength, for the reasons given for it are very unconvincing and it is quite evident that the Japanese Delegation here profoundly disapproves and, so far as I can make out, so does the civil Government in Tokyo. If they do attack Chinchow, it is at least on the cards that Chinese public feeling, or student feeling, will become unmanageable and insist on a declaration of war, making a formal appeal under Article 16 for assistance from all the Members of the League. If they do, it would be very awkward, in view of the existing domestic situation. For it would seem quite clear that, in the circumstances supposed, Japan will have resorted to war in breach of its covenant under Article 12. But for your instructions,¹ I confess I should have been inclined to point out to Matsudaira privately the grave danger of the situation, because I understand he has some influence in Tokyo. Naturally, as things stand, I shall not say a word to him or anyone else and very likely nothing will happen except that Chinchow will be taken under the very eyes, so to speak, of the Council of the League of Nations. I am afraid the whole incident will greatly weaken the position which we have hitherto taken up with the French that they are sufficiently protected by the clauses of the Covenant against German attack.

It has been a very exasperating experience, but if by good luck the Resolution goes through and there is no attack on Chinchow, the net result will be not so very bad and at any rate a great deal better than it looked as if it were likely to be three weeks ago.

¹ The reference is uncertain: cf., however, No. 828, note 2.

I shall venture to come and see you as soon as I get back to London which I hope may be on Thursday² evening.

I am very grateful for all your sympathy and support.

Yours ever,
R. C.

² December 10.

No. 832

Sir F. Lindley (Tokyo) to Lord Tyrrell (Paris)

(Received December 9, 10.30 a.m.)

No. 50¹ Telegraphic [F 7394/1391/10]

Your telegram No. 167.²

TOKYO, December 9, 1931, 3.20 p.m.

French Ambassador received instructions and saw the Minister for Foreign Affairs last night. United States Ambassador has received similar instructions and informed me this morning that he would impress on the Minister for Foreign Affairs the deplorable effect on American public opinion of eventuality of Japanese attack on Chinchow. As I am temporarily indisposed Mr. Snow made the necessary representations to Vice-Minister for Foreign Affairs this morning.

Both the Minister for Foreign Affairs and Vice-Minister for Foreign Affairs took attitude already reported in penultimate paragraph of my telegram No. 49³ adding that while safety of Japanese in large area would be compromised if the Japanese were precluded from advancing to the Hsiaoling line they did not intend to occupy the line unless activities of bandits made the step inevitable.

Mr. Snow observed that restraint on Japan's part besides greatly assisting the League would redound to her own credit. Vice-Minister for Foreign Affairs undertook to examine whether the Hsiaoling line could be modified to exclude Chinchow.

Repeated to Nanking.

¹ This telegram was addressed to Paris on December 9, and was repeated thence unnumbered to the Foreign Office, where it was received on December 10.

² Foreign Office telegram No. 167 of December 8 (not printed) referred to No. 826 and stated: 'Please act accordingly if your French colleague does so.'

³ See No. 827.

No. 833

United Kingdom Delegate (Paris) to Sir J. Simon (Received December 10)

No. 165 [F 7405/1391/10]

PARIS, December 9, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copy of the record¹ of a private

¹ This record was made by the United Kingdom representatives for the use of His Majesty's Government.

meeting of the Council of the League of Nations on December 9 when a note from the Japanese Delegate respecting the proposed neutral zone at Chinchow was discussed.

ENCLOSURE IN No. 833

PARIS, December 9, 1931

The members of the Council, other than the Parties, met this morning.

M. Briand communicated a reply which he had received from Mr. Yoshizawa to the note addressed to him on the subject of the neutral zone at Chinchow (see Delegation telegram No. 201 L.N.² of December 7). The reply, the text of which is annexed,³ repeated the statement already made verbally by Mr. Yoshizawa to the effect that the Japanese authorities, while claiming the Hsiaoling-ho river as the limit of the proposed zone on the Japanese side, did not intend to occupy the territory intervening between the Hsiaoling-ho river and the Liao river, except in exceptional circumstances such as the necessity of dealing with bandits.

M. Briand also read a telegram which he had received from the French Ambassador in Tokyo reporting a conversation with Baron Shidehara. Baron Shidehara had said that, while the Japanese authorities were most anxious to avoid further clashes, it was impossible for him to guarantee definitely that no military operations would be undertaken against Chinchow in the event of an absolute necessity arising.

M. Briand drew attention to the fact that Mr. Yoshizawa's note, like most of the other communications received from the Japanese Delegation, was marked confidential. He did not know exactly what this meant, but it did not appear to authorise communication to the Chinese Delegation, and he did not therefore see how matters were improved, even if Mr. Yoshizawa's note contained any new factor. As it was, the note was extremely vague and it was difficult to understand precisely what was intended.

Lord Cecil said that a vital point appeared to be whether the Japanese Government would tolerate the presence of Chinese authorities and police in the zone between the two rivers. If they did not, it was inevitable that disorders would arise and the Japanese forces would then enter to suppress them.

Herr von Mutius said that he thought Mr. Yoshizawa's reply was merely intended as a gesture of politeness and did not in any way modify the situation.

It was agreed that no further action could be taken in the question of a neutral zone for the present.

M. Briand asked that when the Council adjourned a small committee of the

² Not printed. This telegram transmitted the text of the note referred to in No. 826, note 4.

³ Not printed. This annex comprised a French text of the note of December 8 from Mr. Yoshizawa to M. Briand printed in *Foreign Relations of the United States 1931*, vol. iii, p. 634. The reply of Mr. Yoshizawa was confirmed by him in a note of December 11 to M. Briand (not printed).

Council might be left in being in order to advise and assist him in such action as might be required from him in his capacity as President. This was agreed to in principle.

Lord Cecil said that he would be unable to remain himself but could probably arrange to be represented by a member of the staff of H.M. Embassy.

Lord Cecil enquired whether there would be any possibility of inducing General Dawes to reinforce the action of the Council either by attending a meeting or by sending some formal communication indicating the support of the United States Government.

The Secretary-General said that General Dawes had informed him that the United States Government were very anxious to assist the action of the Council by representations to the two Parties, and they had in fact done so on several occasions. But General Dawes had given him to understand that he would be embarrassed by an invitation to take any personal part in the proceedings of the Council.⁴

⁴ For the proceedings concerning China of the public meetings of the Council of the League of Nations on December 9 and 10 see *League of Nations Official Journal*, December 1931, pp. 2374-6 and 2376-83.

No. 834

Lord Tyrrell (Paris) to Sir J. Simon (Received December 11, 8.30 a.m.)

No. 207 L.N. Telegraphic: by bag [F 7412/1391/10]

PARIS, December 10, 1931

Following from Mr. Carr:—

Resolution passed and session ended this evening.

Repeated to Nanking and Tokyo.

No. 835

United Kingdom Delegate (Paris) to Sir J. Simon (Received December 11)

No. 166 [F 7410/1391/10]

PARIS, December 10, 1931

The United Kingdom Delegate to the League of Nations presents his compliments and has the honour to transmit copy of the record¹ of a private meeting of the Council of the League of Nations on December 10 at which declarations respecting Manchuria to be made at the final meeting of the Council of the League of Nations were discussed.

¹ This record was made by the United Kingdom representatives for the use of His Majesty's Government.

PARIS, *December 10, 1931*

The members of the Council, other than the Parties, met this morning.

The Secretary-General distributed the terms of the declaration which the Japanese Delegate proposed to make at the public meeting this afternoon regarding the rights of the Japanese military authorities to deal with bandits. The text (copy annexed)² was the same as that submitted by Mr. Ito to the Drafting Committee on December 7th. It was then considered unsatisfactory by the Drafting Committee and Mr. Ito had indicated that the Japanese Government would object to any comments being offered on it by other members of the Council.

It now appeared, however, that the Japanese Delegation would not take exception to any comments which might be made by other members of the Council, provided that it was not alleged that the reserve was invalid or contrary to the terms of the Resolution.

As regards the statement in the Declaration of the President that the Commission on its arrival in China should enquire into the execution of the resolution of September 30th, the Japanese Delegation intended to state that this must not be taken as implying that the Japanese Government accepted any time limit for evacuation, and they desired that the President should confirm this view.

M. Colban said that some statement must be made, either by, or on behalf of, the members of the Council in regard to the 'bandits' declaration and he suggested that Lord Cecil, as the President of the Drafting Committee which had carried on the negotiations with the Japanese Delegation on the subject, might take the lead.

Lord Cecil indicated in general terms what he would propose to say in reply to the Japanese Delegation.

Several members of the Council said that they desired to speak after the acceptance of the Resolution, at the conclusion of the session, in order to state the attitude of their Governments to the whole question.

The Secretary-General said that he had seen General Dawes, who had suggested that some statement might be made at the Council as to the desirability of establishing a neutral zone at Chinchow and pointing out that the Japanese Government had accepted in principle the original Chinese proposal to this effect. If such a declaration were made, General Dawes would issue a personal statement in a similar sense.

It was pointed out that the members of the Council had abandoned the negotiations for the establishment of a neutral zone on discovering that the Japanese view of the conditions on which the zone might be established did not constitute a reasonable basis of negotiation with the Chinese Government. In these circumstances it might be dangerous, and could scarcely serve any useful purpose, to revert to the matter. It was therefore decided to leave it in abeyance.

² Not printed. The text was identical with that cited in No. 825, enclosure.

Sir F. Lindley (Tokyo) to Sir J. Simon (Received January 18, 1932)

No. 584 [F 366/1/10]

TOKYO, December 11, 1931

Sir,

In continuation of my despatch No. 556,¹ Confidential, of the 27th ultimo, I have the honour to furnish a further report on the course of events connected with the Manchurian dispute during the past fortnight.

2. As soon as General Ma had been disposed of, some of the Japanese troops were withdrawn from Tsitsihar; and it looked as if the withdrawal from the North would be complete. This did not prove to be the case, and it was announced about a week later that, the position round Tsitsihar having again become menacing, a fresh brigade would be sent there to replace the tired troops. About the same time it was reported, apparently by His Majesty's Consul-General at Harbin, that forty Japanese soldiers with side-arms had arrived there by the Chinese Eastern Railway, which had made no difficulty in transporting them. I informed the Minister for Foreign Affairs of this latest development on November 29th, and warned him of the danger of some incident being provoked by the presence of these men. He was genuinely surprised, and asked me to give him full details as to their equipment and appearance. On the 7th December I happened to see Baron Shidehara again and he told me that he had made searching enquiries regarding these mysterious soldiers; and they had turned out to be boy-scouts who had come up in order to pay their respects to the Consul-General at Harbin and had returned again. I own that I was much surprised to hear of the despatch of these soldiers, since it has always been believed by this Embassy that the Japanese would not occupy Harbin, and I have no doubt the explanation given by Baron Shidehara is the correct one. Since this incident was cleared up, there have been no fresh developments in the Northern area of occupation, which has been visited by Colonel Simson, Military Attaché to this Embassy, who found everything quiet. If yesterday's papers are to be believed, the Japanese have even made up their quarrel with General Ma who is to be installed again as Governor of Heilung Kiang Province. But this report has appeared before and the wish is probably father to the thought.

3. Before dealing with the situation at Chinchow, which has been much the most critical point in Manchuria during the period under review, it may be as well to mention what may be called the Stimson incident. It will be remembered that, as the result of pressure by the Powers represented at Paris, the Japanese Government had undertaken not to attack Chinchow unless provocation became intolerable. Mr. Stimson seems to have believed that an attack had nonetheless actually been launched; and he was reported to have informed the Press at Washington, on November 27th, that he had

¹ Not printed.

had a promise from the Civil and Military Japanese authorities that no advance on Chinchow was contemplated; and that every time the Japanese advanced they expressed regrets and said it would not happen again. What Mr. Stimson really said will never probably be known; but I enclose a cutting from the 'Japan Advertiser' of November 29th showing what he was reported to have said.² The outburst produced a storm in the Japanese Press and the Gaimusho at once issued a sharp rejoinder to Mr. Stimson of which a copy is also enclosed.³ The War Office duly filed their protest from which it will be seen that they maintain the well known thesis that the Army knows no master but the Emperor.

4. The American Ambassador first heard of Mr. Stimson's outburst from Baron Shidehara himself who showed him the passage in the 'Japan Advertiser' of November 29th and complained that it had placed him in an impossible position. Mr. Cameron Forbes told me two days later that his own was no more comfortable. What had happened was this. Baron Shidehara had assured him in the strictest confidence on November 24th that he had secured the approval of the Chief of the General Staff and of the Minister for War to an absolute decision not to advance on Chinchow in present circumstances; and had warned him that the assurance must on no account be divulged. Mr. Forbes had telegraphed this to Mr. Stimson in a telegram marked 'Most Confidential. For the eye of the Secretary alone.' He blamed himself later for not having put something in the body of the telegram emphasising the importance of secrecy. In any case Mr. Stimson, having probably heard that Japanese troops were about to attack Chinchow on November 26th (General Honjo had, we heard later, actually entrained a brigade to pass through Chinchow on the way to relieve Tientsin but was ordered from Tokyo to recall it), disregarded the confidential nature of the Japanese assurance and made a highly indiscreet utterance to the Press Representatives. He informed Mr. Forbes that he had asked those representatives not to publish the details about the assurance and that all had kept their promise save the representative of the Associated Press. However this may be, the Ministry for Foreign Affairs were able, on November 30th, to publish what amounted to a complete denial by Mr. Stimson of having said anything at all out of the way. A copy of this is also enclosed.³ It should be mentioned that the first violent reaction of the Gaimusho to Mr. Stimson's statement was as unknown to Baron Shidehara at the time as was the original statement to Mr. Forbes. Mr. Shiratori, of the Press Bureau, was alone responsible for its provocative character.

5. Although the whole incident was officially declared closed on November 30th, it is unlikely that we have heard the last of it. The Opposition papers have denounced Baron Shidehara, not merely for gross constitutional impropriety in daring to answer for the Army but for deliberate treachery to the country by revealing Military secrets. Such accusations sound like the ravings of lunatics; but I am assured that they will be taken seriously in

² Not printed. See *Foreign Relations of the United States: Japan 1931-1941*, vol. i, pp. 52-53.

³ Not printed.

the Diet when it meets in January. In discussing the whole episode with the Baron I found him singularly little disturbed as to the personal attacks on himself, though he admitted they were inconvenient. What he feared was that the Chinese, believing that the Americans were in a position to control the Japanese Army, would stiffen their attitude as regards evacuation of Chinchow. That would inevitably lead to trouble. Whether this fear was justified or not, it will be noticed that the Chinese withdrawal of their offer to evacuate the Chinchow area followed, if it was not caused by, Mr. Stimson's outburst.

6. To return to the Chinchow area. The neutral observers, sent in considerable numbers by the various diplomatic missions in Peking to the area, have performed a useful part in reporting on the conditions prevailing. As was to be expected, their reports show clearly not only that the Chinese have not the slightest intention of attacking the Japanese but that the movements of Chinese troops and the bandit danger are both much exaggerated. The reports of the Tokyo Military Attachés, on the other hand, are naturally mainly based on official Japanese information and are principally of use when they show that Japanese troops are not, as a matter of fact, in places where the Chinese say they are. In view of these conflicting reports, it was natural that a meeting of the two sides should be considered advisable; and I trust that, before he returns here, Colonel Simson will have been able to compare notes with Colonel Badham-Thornhill and others from Peking.

7. It was also natural that an attempt should be made to make use of these observers in connection with the proposal, originating with Messrs. Wellington Koo and Sze, to withdraw all the Chinese troops from the Chinchow region on certain conditions. Unfortunately the Japanese, true to their determination to allow no intermediaries between them and the Chinese, refused to hear of their assuming such a part. I represented in vain to the Minister for Foreign Affairs on November 30th the useful, if modest, assistance these gentlemen could render to both sides in bringing them together and fixing not merely the limits of the zone in which no troops would enter from either side but other details connected with the evacuation. Baron Shidehara replied that all this could much better be arranged direct with the Chinese and that he intended to appoint a Consular officer as head of the Japanese delegation. My French Colleague, acting officially on instructions from Paris, had no better fortune on December 1st.

8. Although it was known that the Chinese had begun, perhaps under the belief of American support or perhaps under student threats of violence, to repent of their offer to evacuate, negotiations were continued as to the limits of the zone. It is necessary here to remark that this is a question of real importance; since the Japanese were to give an undertaking to the Council not to send troops into the evacuated zone. There was to be no 'bandit' or other qualification to this undertaking, so that it behoved Japan to see that the zone was as small and contained as few Japanese interests as possible. When I saw Baron Shidehara on December 7th, without instructions, in order to discuss the general position, he at once turned the conversation to

the limits of the zone. Fetching out a large scale map, he pointed to a little stream (called, I learned later, the Hs[i]ao Ling) which seemed to meander through the suburbs of Chinchow, and pointed to it as the obvious Eastern limit of the zone. I expressed surprise and had no difficulty in finding on the map the river Liao far to the East which I understood formed the present frontier between the rival forces. Surely this was the only natural and logical limit of the zone. The Baron declared that the original Chinese proposal was to withdraw from Chinchow to Shanhaikwan and this was what the Japanese had accepted when it had been laid before them officially by the French Ambassador. The Japanese troops had been at one time well East of the Liao and had only been withdrawn on the strength of the Chinese proposal. Moreover, the extensive district between the Liao and the Hs[i]ao Ling was not only infested with bandits but open to incursions by more truculent fellows still from the North. They had recently looted the farm of Baron Okura who was surely a friend of mine. The area between Chinchow and Shanhaikwan was well sheltered to the North and there were few bandits or Japanese there. Although it would be inconvenient, the Japanese Government were ready to promise not to send troops into this smaller zone however troublesome bandits might become there.

9. Baron Shidehara then went on to declare in the gravest manner that he was exceedingly anxious as to the result of the Chinese withdrawal of their proposal to evacuate. The Government were being accused, both by the Army and the public, of having been duped by the Chinese and he was afraid they might lose patience. He gave me the impression that he feared something more serious even than an attack on Chinchow, as I reported in my telegram⁴ the same evening. The next day, December 8th, I received a telegram⁵ expressing the anxiety of the Council at the attitude of the Japanese over this question of the limits of the zone which might well be the prelude to an armed attack on Chinchow; and the same evening the French Ambassador received instructions to make strong representations to the Minister for Foreign Affairs in the sense desired by the Council. Next morning, December 9th, I received similar instructions and, being confined to bed with slight fever, instructed Mr. Snow to act on them.⁶ The American Ambassador, who was good enough to come to see me with the French Ambassador in my room, informed me that he was going to concentrate in his interview on impressing on Baron Shidehara the extremely bad effect which an attack on Chinchow would have on American public opinion. Although all these representations do not seem to have reconciled the Japanese to the enlarged zone, they may well be the reason that no attack on Chinchow has yet taken place. There the matter stands at the moment; but I regard it as certain that the Japanese will not rest content until the last vestige of the authority of the Young Marshal has been removed from Manchuria.

10. Trouble began again to brew at Tientsin towards the end of November to the usual accompaniment of shots and accusations exchanged between

⁴ See No. 827.

⁵ See No. 826.

⁶ See No. 832.

the Japanese Concession and the Chinese town. So menacing did the situation appear to the Japanese that General Honjo, Commander-in-Chief in Manchuria, actually entrained a brigade of troops at Mukden, either late on November 26th or in the early hours of the 27th, for Tientsin. The measure was taken on his own initiative and it may legitimately be doubted whether the troops would, in practice, have ever reached Tientsin. It is more probable that they would have found it necessary to dispose of the Chinese forces which barred their way at Chinchow. In any case the brigade was recalled a few hours after it started by orders from Tokyo. A detachment of 500 men was despatched from Dairen to Tientsin; and, on November 30th, Baron Shidehara informed me that an agreement had been reached with the Chinese which would settle the trouble provided the Chinese observed it.

11. As regards Manchuria as a whole, nothing has been heard of Mr. Pu Yi since my last despatch was written.⁷ The local Committees set up by the Japanese seem to be working in their very restricted spheres; but we are no nearer a real Chinese Administration, or an organised Japanese Administration for that matter, than we were before. Banditry, if one can accept the newspaper reports, is certainly getting worse, as one would expect; and there seem to be more serious clashes between the Japanese troops and those gentry and a livelier aeroplane activity than was the case a fortnight ago. There has been a great deal of interference by the Japanese both with the funds and the track of the Peking-Mukden Railway, in which the predominant interest is British; and the unpleasing prospect of a long wrangle with the Japanese as regards compensation is looming up. Of evacuation there is no sign. Nor is there likely to be until the Chinese make up their minds to enter into direct negotiations with the Japanese on all outstanding questions.

12. It would serve no useful purpose for me to report on the various phases of the negotiations which have filled the last fortnight at Paris. They are, necessarily, imperfectly known here; and it is sufficient to say that the Japanese have never wavered from their original stand to accept neither a fixed date for evacuation nor mediation between themselves and the Chinese. In these circumstances it has been found necessary for the Council to exercise pressure at Nanking instead of at Tokyo, with the result that both Messrs. Wellington Koo and Sze temporarily resigned and the students took control of the streets, if not of the Government offices. The long-expected Resolution of the Council will be published here today; and sufficient is known of it already to be sure that it will not settle the conflict. Nor is this the fault of the Council except in so far as they originally undertook a task manifestly beyond their powers in the present state of world opinion. The principal feature of the Resolution seems to be the appointment of a Commission with wide terms of reference but without power to interfere in Sino-Japanese negotiations. Let us hope that the existence of the Commission will not encourage the Chinese to postpone entering into those negotiations which can alone bring this conflict to an end.

13. There has been, so far as this Embassy is aware, no official exchange

⁷ See No. 734, note 1.

of amenities between Moscow and Tokyo during the last fortnight. Unofficial exchanges have, on the other hand, been active; and there has been a recrudescence of accusations in the Japanese Press of Soviet help to the Chinese in North Manchuria. The Soviet has replied both in Press articles and, apparently, in a Resolution by Profintern accusing the Japanese of flagrant imperialist and capitalist action. This seems to us merely to be part of the game.

I have, &c.,
F. O. LINDLEY

APPENDIX I

Despatch from Sir M. Lampson dealing with the Sino-Russian dispute over the Chinese Eastern Railway

Sir M. Lampson (Peking) to Mr. A. Henderson (Received September 15)

No. 930 [F 5146/106/10]

PEKING, July 2, 1930

Sir,

It is not permissible yet to say that the dispute which broke out last year between China and Russia over the Chinese Eastern Railway has been finally composed, since, although the railway has been reopened under joint Sino-Russian management in accordance with the preliminary terms contained in the Habarovsk Protocol,¹ the formal negotiations at which, as provided in that instrument, the outstanding questions were to be definitely settled still hang fire, and the Central Government of China has even refused up to date formally to endorse the terms of the protocol. Nevertheless, whatever may be the case with the general issue of Sino-Russian relations raised in the course of the conflict, there can be little doubt that the concrete question of the control of the railway, which was raised by the Manchurian authorities when they seized the line in July last, was, in practice, settled for some time to come when the latter were compelled on the 26th November to agree to a return to the *status quo ante* and to the reinstatement of the dismissed Soviet employees on the railway. A well-defined chapter was thus closed with the signature of the Habarovsk Protocol, and in view of the stagnation of the conversations that have been in progress in Moscow since the 9th May, and the possibility that the promised conference may fail to materialise, I take this opportunity to recapitulate and survey the course of events up to the present moment.

2. The management of the Chinese Eastern Railway had long been a source of friction and possible conflict between Soviet Russia and the Chinese Republic, but the crisis of the 10th July came with little warning. Reports from His Majesty's Consul-General at Mukden had for some time shown that the Manchurian authorities were anxious to terminate Russian control over the railway and were considering how best to achieve this end. But there was nothing to indicate that they would resort to drastic measures, at all events until they had tried the path of negotiation by putting forward proposals for reorganisation.

3. The first sign of trouble to reach His Majesty's Legation was a report on the 9th July from the acting British Consul-General at Harbin that proposals were shortly to be made to the Soviet members of the railway board and that the Chinese authorities, fearing that if these proposals proved unacceptable the Soviet might organise a strike of railway employees, were making preparations for maintaining traffic.

4. On the next day, the 10th July, the Chinese authorities at Harbin suddenly took over the telegraph administration of the railway, closed the Soviet Trade

¹ This protocol of December 22, 1929, on the settlement of the conflict concerning the Chinese Eastern Railway, is printed by Jane Degras, *Soviet Documents on Foreign Policy*, vol. ii, pp. 434-6.

Mission (Torgpredstvo), the offices of the Soviet Merchant Marine (Sovtorgflot), the Far Eastern Trading Corporation (Dalgostorg), the naphtha and textile syndicates and the railway professional unions. Numbers of 'Communist' employees of the railway were arrested, some of them being immediately deported to Russia and others placed in a detention camp. The Russian general manager, Emshanoff, and his assistant, Eismont, were dismissed, and left for Russia two days later, a Chinese, Fan Chi-kuang, being appointed to replace Emshanoff. All the Soviet heads of departments, such as telegraphs, finance and revenue, commerce, traffic and direction, were dismissed and immediately replaced by Chinese and White Russians. Five days later the Land Department was also seized.

5. The rights and wrongs of this action are difficult for any outside party to determine with any certainty on the evidence at present available. Chinese propagandists have sought to justify it on two grounds, namely, in the first place, that the management of the railway was not carried on in the spirit of the agreement which regulated it, and, in the second place, that the railway institutions which had been seized had been employed by the Soviet Government for the dissemination of Communist propaganda and other intrigue against the governing Chinese authorities.

6. To understand the issue it is fortunately scarcely necessary to go into all the complicated diplomatic history of the Chinese Eastern Railway, but it is necessary to go back as far as 1919. Before that date, although the sovereign rights of China over the land on which the railway was built had been expressly recognised in an agreement in 1909 between Russia and China,² the railway itself was a Russian concern, the contract for its construction and operation having been granted on the 8th September, 1896, to the Russo-Chinese Bank (afterwards the Russo-Asiatic Bank). The bank, in its turn, had an agreement with the Russian Government, under which the latter guaranteed the expenses of exploitation and the annual payments on bonds issued by the railway. Thus, although the railway belonged in theory to a private company, it came very near in practice to being a Russian Government concern. This state of affairs lasted until 1919, when, in view of the chaos which resulted in Siberia from the Russian revolution and the Great War, an Inter-Allied Board, on which China was represented, took over temporary control of the Chinese Eastern Railway on the initiative of the United States and Japan.³ This régime came to an end in October 1922 when, in the absence of a recognised Russian Government, the Chinese were left to deal with the Russo-Asiatic Bank as the nominal owner of the railway. The policy of encroachment which the Manchurian authorities adopted from this date until 1924 sufficiently showed their ultimate intention to seize entire control.

7. They had no doubt been encouraged to hope that they would recover the railway by the Soviet declarations of the 25th July, 1919,⁴ and the 2nd October, 1920.⁵ The first of these was a kind of open letter from M. Karakhan, then Vice-Commissioner for Foreign Affairs, to the People of China, which, in repudiating Tsarist policy and renouncing Russian privileges flowing from it, stated *inter alia*

² The Sino-Russian agreement of April 27/May 10, 1909, is printed in *British and Foreign State Papers*, vol. 102, pp. 396-9.

³ See Series I, Volume III, No. 256, annex B. See also Series I, Volume VI, chapter II *passim*.

⁴ Printed by Jane Degras, op. cit., vol. i, pp. 158-61.

⁵ See the proposed Soviet-Chinese agreement of September 27, 1920, printed *ibid.*, vol. i, pp. 212-15.

that 'the Soviet Government restores to the Chinese people without any indemnity whatsoever the Chinese Eastern Railway'.

8. Subsequently, however, the Soviet Government, angered no doubt by being ignored by China, seems to have thought better of their generosity in this respect; for their note of the 2nd October, 1920, also signed by M. Karakhan, describing the basis on which they were prepared to conclude a new treaty of friendship with China, while it confirmed the principles of the declaration of the 25th July, 1919, and pledged the Soviet Government to make unconditional return to China of all rights, concessions, &c., acquired either by Russian capitalists or by the Tsarist Government in China, proposed none the less as one of the essential stipulations of the future treaty that 'China and the Soviet Government shall agree to negotiate a special arrangement providing for the use of the Chinese Eastern Railway by the latter'.

9. In 1922 the attitude of the Soviet Government had so far stiffened that we find their representative, M. Joffe, in a note to the Waichiaopu of the 3rd November, regarding the status of the Russo-Asiatic Bank after the withdrawal of the Inter-Allied Technical Board of Control, pointing out that only the Russian Government had the right to interfere in the rights of the railway, which was built with Russian money and which was Russian property until such time as Russia decided to surrender her rights to someone else; and in a further note of the 6th November M. Joffe stated that the declarations of 1919 and 1920 were not to be interpreted as a renunciation of Russian rights (particularly their rights in the Chinese Eastern Railway) until the conclusion of a new agreement between Russia and China.

10. The situation was eventually regularised in 1924 by two agreements, by which the position of the Chinese Eastern Railway was governed up to the events of the 10th July last year. The first of these was the 'Agreement on General Principles for the Settlement of the Questions between the Republic of China and the Union of Soviet Socialist Republics', signed at Peking on the 31st May, 1924, for the restoration of normal relations. The second was a very similar agreement, signed on the 9th [20th] September of the same year at Mukden, between the Soviet Government and the Government of the Three Eastern Provinces of China.⁶

11. Article 6 of the Peking Agreement reads as follows:—

'The Governments of the two contracting parties mutually pledge themselves not to permit within their respective territories the existence and/or activities of any organisations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party.

'The Governments of the two contracting parties further pledge themselves not to encourage any propaganda directed against the political and social systems of either contracting party.'

12. Article 9 provided that the two Governments should settle the question of the Chinese Eastern Railway at a future conference in accordance with the following principles:—

- (a) That the railway should be a purely commercial enterprise.
- (b) That, while the railway should directly control its business operations, the Chinese authorities should administer such things as judicial matters, civil

⁶ The two agreements are printed in *British and Foreign State Papers*, vol. 132, pp. 263–70 and 271–5.

and military administration, police, municipal government, taxation and landed property (except lands required by the railway).

- (c) That Russia agreed to the redemption of the railway by China, the conditions and procedure to be settled at the above-mentioned conference.
- (d) That, pending the result of the conference, an arrangement for the provisional management of the railway should be drawn up.

13. This arrangement for provisional management was concluded on the same day at Peking⁷ and attached to the Agreement on General Principles. It provided for a board of directors of ten members, five (including the president, who was also director-general-tupan) appointed by the Chinese Government, and five (including the vice-president) by the Russian Government. Decisions of the board required the consent of at least six members. There was also to be a board of auditors, composed of three Russians and two Chinese members. The manager of the railway was to be a Russian national appointed by the board of directors and confirmed by his Government, and there were to be two assistant managers, one Russian and the other Chinese, appointed and confirmed in the same way. The board of directors was also to appoint the heads and assistant heads of various departments of the railway, a Russian head being assisted by a Chinese and *vice-versa*; and the personnel of the departments was to be chosen in accordance with the principle of equal representation. With the exception of the estimates and the budget, which were to be submitted to a joint meeting of the board of directors and the board of auditors, all matters on which the board of directors could not reach a decision were to be referred for settlement to the two Governments.

14. The Mukden Agreement resembled in general the Peking Agreement, and contained an article covering the management of the railway, which corresponded closely to the above provisional arrangement, the only substantial difference being that, in addition to providing for redemption of the railway by China, the Mukden Agreement provided for its transfer to China gratis after sixty years from its completion (instead of after eighty years as laid down in the original contract) or such earlier time as might be mutually agreed upon.

15. During the year which followed the conclusion of these agreements the Russian element in the Railway Administration, making use of the executive powers of the general manager and assisted by the lack of technical qualifications among the Chinese, succeeded in re-establishing a large measure of control over the railway, which they used as a means of spreading Soviet influence in Manchuria. In 1926, however, the Manchurian Government under Chang Tso-lin began a determined attack on the Russian domination of the line. The subsidiary enterprises of the railway were first assailed. The Sungari River fleet operated by the company with its wharves, warehouses and machinery was taken over; a Chinese land office was established in the railway area, which, after a long struggle, succeeded in arrogating to itself most of the functions of the Railway Land Department, which had previously controlled the leasing of all land within the vast tracts allotted to the railway under their original contract. And in 1927 the administration were forced to accept an arrangement by which half the surplus funds of the railway should be deposited in Chinese banks. Nevertheless the Russian position in Manchuria was still far too strong to be vitally affected by the catastrophe that overtook Soviet diplomacy in other parts of China during that year. The Russian Consu-

⁷ This agreement of May 31, 1924, is printed in *Treaties and Agreements with and concerning China, 1919-1929*, pp. 141-4.

lates at Harbin and Mukden remained untouched by the closing of the Embassy in Peking, and continued to function undisturbed after the Three Eastern Provinces passed in December 1928 under the nominal suzerainty of the National Government, which had broken off relations with the Soviets.

16. During most of the year 1928, which saw the fall of the Chang Tso-lin Government in North China and the death of the Marshal himself, there was a lull in the struggle for control of the Chinese Eastern Railway, but in December the Chinese offensive was reopened and the Manchurian authorities forcibly took over the telephone service which the railway had previously operated in the Special Area under the terms of their agreements from 1896 onwards, which allowed them to establish necessary means of communication.

17. During the opening months of 1929 signs were not lacking that the idea of assuming effective control of the railway itself was gathering force in the minds of the Chinese. In the press and in the public and private utterances of Chinese officials, references were made to the abuse of the general manager's powers by the Russians and the principles of dual control and Sino-Russian parity on the railway staff. And a proposal was actually pressed by the Chinese on the Russian Administration that the orders of the general manager and other Russian officials in controlling positions should require the counter-signature of their Chinese assistants.

18. The Soviet Government were evidently perturbed by the situation, and on the 2nd February a note was addressed to Mukden suggesting the discussion and settlement of all disputable issues. This proposal having remained unanswered, in March and April the Soviet Consul-General at Harbin, Melnikoff, made two visits to Mukden which were openly associated with the situation in the Railway Administration. On both occasions he appears to have received scant satisfaction from Marshal Chang Hsueh-liang.

19. This was the position when news was received that on the 27th May a raid had been carried out by the Chinese police on the premises of the Soviet consulate-general at Harbin, and had surprised what was alleged by the Chinese to be a secret meeting of members of the Third International. Some forty Soviet citizens, including the Soviet consul from Mukden, were present at the meeting, most of whom belonged to the railway or other Soviet organisations. Thirty-nine persons were detained, and a number of documents, some of them partially burned, were seized. The action of the Chinese police naturally accentuated the already existing tension of Sino-Russian relations and called forth a vehement protest from M. Karakhan to the Chinese Chargé d'Affaires in Moscow,⁸ in which the Chinese Government were warned against further provocative action, but for some time no further definite action was taken on either side. The captured documents, which were afterwards published, revealed nothing very startling, though they afforded more or less substantial evidence of the activity of Soviet agents in Manchuria. The arrested persons were, after a long delay, eventually brought into court on the 2nd October and sentenced, after an inconclusive trial, to varying terms of imprisonment.

20. In June Mr. W. H. Donald, a British subject acting as adviser to the Manchurian Government, informed His Majesty's Consul-General at Mukden that the question of removing the railway from Russian control was exercising the minds of the Government.

21. Nevertheless the forcible measures taken on the 10th July came as a shock on account of the precipitate and drastic manner in which they were carried

⁸ For M. Karakhan's note of May 31, 1929, see Jane Degras, *op. cit.*, vol. ii, pp. 381-3.

through, for which there seemed to be no immediate occasion. The reason for the dismissal of the general and assistant managers and other heads of departments was variously given by the Manchurian authorities as their rejection of the proposal for counter-signature of their orders by their Chinese colleagues and the refusal of M. Emshanoff to order the handing over of the Telegraph Administration to the Chinese authorities. But the sweeping nature of the anti-Russian drive and the rapidity with which the steps necessary to secure control of the railway were carried out left no doubt that all were part of a premeditated *coup* on the part of the Chinese authorities.

22. A plausible account of the inner history of the *coup* is current in Mukden, which explains the suddenness and rashness with which the seizure was effected, and also provides a basis for the *apologia* now officially put forward by the Chinese that the president of the railway acted without instructions. According to this account, the Mukden authorities had decided to prepare for their offensive against the Russian management by staging an enquiry into the known abuses of the administration, but were forestalled by the president of the railway, Lu Jung-huan, who, alarmed at the prospect of what might be revealed in connexion with certain financial transactions of his own, decided to torpedo the enquiry and cover his own tracks at the same time by forcing the issue with the Russians. However, whether or not Lu exceeded his instructions in seizing the railway, the Manchurian Government stood by the *fait accompli*, as long as it seemed possible that they might be able to carry it off; and though they have since been constrained to disown and degrade him, there was never any doubt that they accepted responsibility for the tupan's action at the time.

23. As regards the responsibility of the Central Government, the Minister for Foreign Affairs himself made contradictory statements on the subject. On the 23rd July he informed Mr. Aveling that the seizure of the railway had been carried out after full consideration by and under the direct instructions of Nanking. Later, when Chinese Government circles were evidently beginning to feel that the *coup* might have been over-precipitate, he thought it necessary to adopt the version of the facts already put out by the Manchurian authorities, according to which the president of the railway had acted without instructions. He stated, none the less, that his Government did not intend to restore the *status quo ante* on the railway, since the Sino-Russian Agreement of 1924 was out of date and needed revision.

24. As a matter of fact, the Nanking Government has never been in a position to interfere seriously in the affairs of the Three Eastern Provinces, and has no practical interest in the Chinese Eastern Railway, none of the receipts of which reach the Central Treasury, and it is quite possible that they were not consulted with regard to the seizure of the railway. They were, however, forced to intervene, in order to maintain their claims to be the Government of a united China, when the action taken at Harbin had provoked an international crisis. As soon as it was realised that a hornets' nest had been stirred up, the Mukden authorities were quite ready to shelter behind the Central Government, while the latter saw an opportunity of asserting their sovereignty and possibly consolidating their control over Manchuria, and had no scruples in endorsing an act which chimed with their policy of abrogating the 'unequal' treaties.

25. In the circumstances, it is evident that China as a whole must accept full responsibility for the seizure of the railway, and both the Manchurian and the Nanking authorities have consistently and publicly sought to justify the step, on the ground of the breach by the Soviet officials of the Sino-Russian agreements

alluded to above, firstly, by seeking to usurp control of the railway contrary to the principle of equal participation in the management, and secondly, by disseminating Communist propaganda, in violation of article 6 of the Peking Agreement on general principles and article 5 of the Mukden Agreement.

26. As regards the principle of parity, the Chinese complaint was that the provision of the 1924 agreements remained a dead letter. In the first place, no decision of the board of directors could be taken without the approval of at least six members, i.e., one Russian must vote with the five Chinese members and one Chinese with the Russians. The hands of the board being thus effectively tied in controversial matters, it is alleged that the Russians carried out their wishes, when the board as a whole did not accept them, through the Soviet general manager, who under the statutes enacted by the Tsarist Government in 1896 had considerable power to act without reference to the board. Article 9 of the Peking Agreement relating to the railway and article 1, clause 14, of the Mukden Agreement provided that these statutes were to be completely reviewed by the board of directors within six months of the constitution of the board. On the Chinese side it was alleged that an attempt to amend the statutes in 1924 failed because the board of directors could not agree about the powers of the general manager, the Chinese wishing to curtail and the Russians to increase them. As a result the old statutes have ever since continued in force. The Chinese also complained that a preponderating number of headships of departments have been given to Russians, Chinese being appointed as heads of six only out of twenty departments, and those comparatively unimportant. The facts on which these complaints are based appear to be correct, but the charges that the agreements were thereby violated are not for this reason necessarily justified. In fact, the preponderating control hitherto exercised by the Russians results directly from the terms of the agreements, and the clauses providing that the employment of persons in the various departments shall be in accordance with the principle of equal representation are expressly qualified in both agreements (declaration VII attached to the Peking Agreement, and article 1, clause 10, of the Mukden Agreement) by a reservation that due consideration shall be had of the fitness of the applicants. By the agreements Russia made large concessions from the position which the railway had given her in Northern Manchuria under the Tsarist Government. Russian activities were to be confined to the business operations of the railway, and in these Chinese were to be admitted to a large participation. But the agreements were clearly framed, on the Soviet side, with the intention of securing practical Russian control of the railway for many years to come. China's plea in this respect, therefore, scarcely seems to succeed. To find themselves powerless under the existing system to resist Russian domination of the railway may have been galling, but they do not appear to be justified in pleading that this involved a breach of the agreements either in letter or spirit. Their remedy was to seek a revision of the agreements themselves, and any difficulties they may have anticipated in this respect can scarcely justify their high-handed action in seizing the railway.

27. On the score of propaganda, China has perhaps a better case. On this point it is impossible to obtain conclusive evidence and the documents published after the raid on the Soviet Consulate-General were naturally disputed by the Soviet Government as forgeries. It is, however, well known that the Communist party engages in propaganda in Manchuria as elsewhere and in the organisation of the Chinese Eastern Railway they no doubt found a vehicle particularly adapted for its dissemination. It may be held that the consistent abuse of the organs of the

railway for this purpose might ultimately have justified China in declaring the 1924 agreements inoperative in view of the persistent breaches of the propaganda clauses. All that can be said in this respect is that if the fear of subversive activities was her real motive, by waiting for six weeks after the raid on the Harbin consulate and then without warning proceeding to the expulsion *en masse* of the Soviet Russian employees of the railway, China singularly neglected to take any steps to put herself in the right. And whatever her provocations it is difficult to avoid the impression that the *coup* was essentially nothing more or less than a spasmodic attempt on her part to acquire by force a valuable property which was not hers by rights.

28. The first reaction of the Soviet Government to the events of the 10th July was a telegram dated the 11th July from the Commissariat of Communications to the president of the railway affirming their readiness to discuss all outstanding questions connected with the railway and stating that M. Serabriakov, an official of the Commissariat, was being instructed to proceed to Harbin as their delegate. This was presumably before the full significance of the *coup* was realised in Moscow, for it soon became apparent that the Soviet Government did not intend by any means to acquiesce in the seizure of the railway, and on the 13th July a strongly worded note was handed to the Chinese Chargé d'Affaires.⁹ In this note, M. Karakhan examined at length the position under the 1924 agreements and exposed the illegality of the tupan's action, pointing out that if China had complaints to put forward in relation to the management of the railway, she should have submitted the matter in a regular manner to the Soviet Government in accordance with the agreements, whereas in fact the Russian proposals for discussion of outstanding questions of the 2nd February and the 11th July had remained unanswered. He went on to state that China had evidently interpreted the friendly and 'unimperialistic' policy of the Soviet Government as evidence of weakness. He was compelled to remind them that the Union of Soviet Socialist Republics possessed sufficient means to protect its lawful rights. Nevertheless, the Soviet Government once more expressed its readiness to enter into negotiations 'regarding all questions connected with the Chinese Eastern Railway'. Such negotiations were, however, only possible provided the Chinese authorities immediately released the arrested Soviet citizens and cancelled their illegal orders. The Soviet Government proposed (1) that a conference be immediately called to regulate questions connected with the Chinese Eastern Railway; (2) that the Chinese immediately cancel their arbitrary orders; (3) that all Soviet citizens be immediately released, and that the Chinese authorities cease all persecution of Soviet citizens and Soviet institutions. The Soviet Government proposed to wait three days for an answer to these proposals and in the absence of a satisfactory reply would be compelled to resort to other means for the protection of its rights.

29. The Chinese reply to this note, which was handed in at Moscow on the 17th July, was characteristic in its evasion of realities. After stating briefly the Chinese complaints with regard to subversive propaganda and the violations of the Railway Agreements by the Russian officials, it stated that 'for these reasons the authorities of that province (Kirin) were obliged to act. This shows that the responsibility for the violation of the agreement . . . rests on the shoulders of Moscow.' The Chinese Government had heard that over 1,000 Chinese had been arrested in Russia. The Chinese Government proposed (1) that these Chinese should be released, and (2) that the Soviet Government should give guarantees with regard to the security of Chinese merchants in Russia and should not perse-

⁹ See *ibid.*, vol. ii, pp. 384-7.

cute them. The Chinese Government would then set free the Russians arrested in Harbin. It was then stated that Chu Shao-yang, recently appointed Minister to Finland, had been instructed to break his journey in Moscow in order to talk over outstanding questions with a view to an amicable settlement. Nothing was said of the restoration of the *status quo ante* on the railway.

30. The Russian answer¹⁰ delivered the next day stated that the Chinese note was unsatisfactory; that the Chinese Government evidently rejected the Soviet proposals for a settlement; and that their real intentions were apparent in a published statement made by Chiang Kai-shek in which he declared 'Our steps are designed to take possession of the Chinese Eastern Railway. Our hands contain nothing unusual—we want first to take hold of the Chinese Eastern Railway, then to take up the discussion of all the questions.' In the circumstances the Soviet Government were compelled to recall their representatives from China as well as the persons appointed by them to the railway, to suspend railway communications with China, and to order the withdrawal of the Chinese representatives from Russia.

31. Through-traffic via Pogradich[n]aia on the east had ceased from the 14th July, and the trans-Siberian express from Harbin was held up at the frontier on the morning of the 17th July.

32. On the 20th July it was announced at Nanking that the State Council had decided to break off relations and place Chinese nationals in Russia under the care of the German Ambassador in Moscow. (The German Legation in Peking subsequently assumed charge of Soviet interests in China.) Nevertheless, the Soviet Consul-General at Harbin was not immediately withdrawn.

33. During the days which followed the expiry of the Soviet ultimatum on the 17th July North Manchuria had been full of alarms of war, and there were constant rumours of Russian invasions. Reliable estimates of troop movements were, of course, not forthcoming, but the Soviet army had, in fact, concentrated a certain number of troops at various points on the Manchurian frontier, and while the rumours of raids by troops and aeroplanes into Chinese territory were eventually discredited, the alarm which gave rise to them was no doubt deliberately fostered by demonstrations which were carried out on the Russian side of the frontier. In addition, Russian gunboats seized two Chinese steamers on the Amur. At the same time a large number of Soviet employees of the Chinese Eastern Railway resigned and left their posts, and Communist agitators were active trying to persuade the remainder to do likewise so as to paralyse the railway. The tale of resignations was, however, checked by counter-measures taken by the Railway Administration, and the vacant places were filled with Chinese and White Russians. To the services of the latter is largely due the fact that the railway was able to carry on throughout the period of the dispute.

34. On the Chinese side, in spite of the panic which prevailed in the frontier towns, Manchuli, Progradichnaia [*sic*] and Blagoveshtchensk, no serious preparations were made to meet the invasion which was feared. Some reinforcements were sent towards the frontier, but neither the Chinese authorities nor the Kirin army showed any of the symptoms of 'war fever'.

35. In the meantime the continued presence of M. Melnikoff at Harbin indicated that neither side had given up hope of a peaceful settlement, and, indeed, when he did eventually apply for facilities to leave, the Chinese authorities put obstacles in his way. On the 23rd July he travelled secretly to Changchun, where a meeting took place on the 24th July between himself and General Chang Tso-

¹⁰ See *ibid.*, vol. ii, pp. 387-9.

hsiang, the Governor of Kirin, supported by the Harbin Commissioner of Foreign Affairs, Tsai Yun-sheng, and Li Shao-keng, the Chinese assistant manager of the railway. Whatever the nature of the proposals for a settlement which it is understood were put forward on the Chinese side, they clearly did not amount to the complete surrender which the Russians were demanding. Immediately after his return to Harbin, M. Melnikoff left in a special train for the Russian frontier on the 25th July with the remaining official members of the Russian community. Nevertheless, the road to negotiations was not closed, for four days later Tsai and Li proceeded to Manchuli and remained there during the first week in August holding conversations with the Russian officials either at Manchuli or at Dauria, on the Russian side of the frontier. What passed at these conferences has not been officially disclosed, but by all accounts it appears that at one point the Manchurian Government, realising, no doubt, that they had bitten off more than they could chew, had practically decided to accept with some modifications the preliminary conditions laid down in the Russian note of the 14th [13th] July, when peremptory orders from Nanking forbade the delegates to agree to the reinstatement of MM. Emshanoff and Eismont. The action of the Central Government in thus stepping in to prevent a capitulation to Russia was indicative of their determination to settle the dispute in their own way. They appear to have been relying at this time on the opinion expressed by their German military advisers, who stated that Russia was not in a position to undertake large-scale operations in Manchuria. Being insensible to the very considerable degree of pressure short of an invasion which the Soviet Government were able to bring to bear locally, they maintained throughout a relatively stiff attitude. Clearly, they hoped, by successfully defying Russia and forcing a settlement favourable to China, not only to score a diplomatic victory but to strengthen their claims to authority in the Three Eastern Provinces. They had already announced that Chu Shao-yang, Minister-designate to Finland, had been commissioned to take up the negotiation of a settlement on the way to his post. He was now instructed to take charge of the discussions at Manchuli over the heads of Tsai and Li. Unfortunately, Nanking had reckoned without their host. The Mukden delegates having been forced to go back on the tentative agreement which had been reached, it appears that M. Melnikoff withdrew from the conversations and that Chu Shao-yang, who reached Manchuli on the 6th August, was unable to get in touch with him except by telephone.

36. When it was apparent that the conference had reached a deadlock, a series of organised attempts at sabotage broke out on the railway, including an attempt to blow up a bridge, the removal of rails in various places and a number of cases of incendiarism. The Chinese authorities retorted with stringent measures against suspected Russian agitators, thousands of whom were arrested and interned or deported to the Russian frontier. There were, however, still not overt hostilities, the Chinese having evidently no stomach for fighting, while the Russians, conscious, no doubt, that their military superiority would enable them to take charge of the situation at any moment, bided their time and waited for the break-down of the Chinese under indirect pressure with a sense of diplomatic strategy that one cannot but admire. By the middle of the month all hope of reviving the Manchuli negotiations had broken down. The Chinese delegates returned to Harbin on the 15th, and Russia began to resort to more direct methods. A series of minor hostilities broke out, beginning with raids by small bodies of troops across the frontier. On the 16th August the Soviet cavalry captured the coal-mines near Chalaïnor, well inside the western frontier, after an artillery bombardment; the next day a

similar attack was carried out at the eastern end of the railway, while Soviet gunboats began to patrol the Lower Sungari in support of foraging raids. Still, however, there was no declaration of war. The raiding troops withdrew on each occasion to their own side of the frontier, and the Soviet Government continued to maintain that their operations were carried out either in self-defence or as reprisals, though no evidence has been obtainable here that Chinese troops ever violated the Russian frontier, and there is no doubt that, in most cases at any rate, the Russians were the real aggressors.

37. The events in Manchuria were naturally watched with concern in those foreign countries having interests in the Far East and nowhere more so than in Washington. Japan was obviously the most closely and seriously affected, but with characteristic reserve she gave little or no sign of her feelings, confident no doubt of her ability to protect her position in Manchuria and, it was thought by some, looking on the troubled waters with the feelings of a practised angler. Baron Shidehara continued, however, to give excellent advice to the representatives of both parties when they called on him to put their case, and there is little doubt that the Japanese Government felt themselves cast for the rôle of honest broker and would have been prepared to intervene had they seen any chance of doing so successfully, and that they resented the readiness of the State Department to rush in where they themselves feared to tread.

38. In the traditions of American policy the doctrines of the integrity of China and the 'open door' have been particularly associated with Manchuria and the Chinese Eastern Railway—in 1909 with the Knox neutralisation scheme, from 1918–22 when the United States Railway Commission was in Manchuria, and at the Washington Conference. Moreover the Kellogg Peace Pact, of which both China and Russia were signatories, was due to come into force on the 29th July, and the ironical comment afforded by the behaviour of these two Powers not unnaturally disturbed the State Department. On the 18th July the Secretary of State approached the British, French, Japanese and Italian representatives at Washington with a view to calling the attention of the parties to their obligations under the pact;¹¹ and as a result of this initiative on the 22nd July (America not being in diplomatic relations with Moscow) M. Briand read a suitable lecture to the Russian and Chinese representatives in Paris. (The action taken received the formal approval of the British, Japanese, Italian and German Governments.) Both sides naturally affirmed that they had no intention of commencing hostilities, and Dr. C. C. Wu informed the Secretary of State at an interview on the 22nd July that China did not propose to seize the Chinese Eastern Railway or to take any action except in self-defence.¹² Nevertheless the crisis continued, and on the 28th [25th] July Mr. Stimson handed to the representatives of the interested Powers a memorandum in which he suggested that they should combine in proposing to the disputants to appoint a neutral conciliation commission to adjudicate on the controversy and settle the future of the railway on lines which should include the appointment of a neutral manager.¹³ This proposal was politely rejected by the Japanese Government on the ground that intervention of the kind proposed was likely to be resented by both sides. His Majesty's Government equally regarded the scheme with disfavour, and it was eventually dropped. As the Manchuli negotiations were by then in progress, the United States put forward for the moment no further suggestions of foreign intervention.

¹¹ See *Foreign Relations of the United States 1929*, vol. ii, p. 210.

¹² See *ibid.*, vol. ii, p. 234.

¹³ See *ibid.*, vol. ii, pp. 242–4.

39. The French Government had, however, wholly approved the American attitude possibly because of French financial interests in the Chinese Eastern Railway, and they themselves made an abortive attempt to bring about joint action in favour of these interests. On the 6th August the French Minister informed me that he had been instructed to invite the co-operation of the representatives of the Washington Conference Powers in a declaration to the Chinese Government calling their attention to the interests in the railway reserved in resolution XIII of the conference.¹⁴ The proposal, however, met with no encouragement either from His Majesty's Government or the Japanese Government.

40. At the end of August, when spasmodic hostilities had broken out on the Sino-Russian frontier, the State Department again approached the Foreign Office with a proposal of mediation by the Kellogg Powers, this time on the basis of the appointment of new Russian officials to take the place of those accused of abusing their position.¹⁵ His Majesty's Government were, however, of the opinion that, in view of what was known of the attitude of the Chinese Government, such intervention would be not only fruitless but possibly harmful. And meanwhile negotiations between the parties had been opened in Berlin. The Chinese Minister for Foreign Affairs had also informed Mr. Aveling at Nanking that it was his intention to submit the dispute to the League of Nations should Russia invade Chinese territory.

41. M. Melnikoff having apparently refused to be drawn into semi-official parleys with Mr. Chu, the Chinese Government were forced to turn to the German Government as a channel of negotiations and, as a result of preliminary conversations in Berlin, a note was handed to M. Litvinoff by the German Ambassador at Moscow on the 28th August,¹⁶ embodying a formula proposed by the Chinese Government for a preliminary settlement. Both sides were to declare their intention of settling all questions on the basis of the 1924 agreement and their recognition that 'the situation on Chinese Eastern Railway created as a result of the conflict should be altered' in accordance with the agreement; representatives were to be at once appointed to arrange details; the Soviet Government were to recommend a new manager and assistant manager and to instruct Soviet employees of the railway to observe the clause of the agreement forbidding propaganda. All prisoners on both sides were to be released.

42. M. Litvinoff, replying on the 29th August,¹⁷ stated the readiness of his Government to sign the proposed declaration with minor modifications. They objected to the inclusion of the word 'new' before 'manager and assistant manager' in the declaration, but would be prepared in practice to consider the nomination of new incumbents to the posts of MM. Emshanoff and Eismont if the Chinese Government replaced the president of the board of directors. The settlement, however, seems to have fallen through owing to the insistence of the Soviet Government on the appointment of the Russian manager and assistant manager before the opening of formal negotiations.

43. With the breakdown of the negotiations through the German Government a deadlock seemed to have been reached and a period of stagnation set in. Both sides apparently settled down to wear out the patience of the opposition. The Russians continued their policy of harassing the Manchurian frontiers by minor

¹⁴ i.e. the resolution printed as item 25 in Cmd. 1627 of 1922.

¹⁵ See *Foreign Relations of the United States 1929*, vol. ii, pp. 304-5.

¹⁶ See *ibid.*, vol. ii, pp. 309 f.

¹⁷ See Jane Degras, *op. cit.*, vol. ii, pp. 393-4.

raids and at the beginning of September and again early in October there was a recrudescence of shelling by Soviet artillery at the eastern and western ends of the railway respectively. Tales of atrocities by Soviet irregular cavalry also began to spread and it was confirmed that some of the raids across the western frontier carried out at this time by Cossack bands from Russian territory on the White Russian settlements in the Hailar and Three Rivers districts were accompanied by brutal massacres.

44. On the 13th October Soviet gunboats, supported by artillery and aeroplanes, proceeded up the Amur and captured Lahassussu (T'ung-chiang) at the confluence of the Sungari, sinking three Chinese gunboats.

45. This intensified pressure was not without effect on the Manchurian authorities. Nanking had been preoccupied all the autumn with threats of rebellion in China proper, and Mukden evidently felt it was time to take matters into their own hands again. On the 22nd October, Chang Hsueh-liang made informal overtures direct to M. Karakhan through W. H. Donald (who had previously made a rather ill-considered and unsuccessful attempt to enlist the good offices of His Majesty's Government through this Legation). Mr. Donald's telegram merely provoked, however, a reference to the terms communicated to the German Ambassador at Moscow on the 29th August, and it soon became clear that Russia was preparing to go a stage further towards enforcing her conditions. Threatening statements of the intentions of the Red army were broadcasted by wireless from Habarovsk, and on the 17th November intensive hostilities broke out on both the eastern and western frontiers. A few days later Manchuli and Chalainor, on the western section of the railway, were occupied and this time held by Soviet troops, and the actual invasion of Manchuria was seen to have begun.

46. The details of the campaign have been given in previous despatches.¹⁸ The Chinese forces retreated in disorder to Hailar, where bombing by Soviet aeroplanes completed their demoralisation, and they fled in panic after looting the town, only to be dislodged in the same manner on the 29th November from Buhedu, 124 miles from the frontier. Their disorganised retreat was only stopped by drastic measures adopted by the Provincial Governor, General Wan Fu-lin, 10 miles west of Tsitsihar. The Russians were clearly themselves surprised at the spectacular effect of their advance. It seems certain that they never contemplated operations on a large scale. They had not at any time more than a few thousand men on Chinese soil, and they never advanced beyond Hailar, which was held principally by Mongol cavalry.

47. The *débâcle* of the Chinese forces galvanised the Central Government into a belated and futile attempt to stave off the calamity to which their combined obstinacy and apathy had led. On the one hand, the Minister for Foreign Affairs began to take soundings as to the possibility of inducing His Majesty's Government to intervene as peacemaker, and also spoke of appealing to the League, but appears to have been deterred from the latter course by the prospect pointed out by the Foreign Office, to whom he referred for advice, of difficulties due to the non-membership of Russia. On the other hand, on or about the 20th November a note was delivered to the Soviet Government, through the German authorities, protesting against the Russian aggression, and proposing (1) that a mixed commission of enquiry be formed to investigate the situation, and (2) that the troops on both sides should be withdrawn to a distance of 30 miles from the frontier. Finally, on the 3rd December identic notes were addressed to the signatories of the Kellogg Pact

¹⁸ Not printed.

accusing Russia of violating the treaty and requesting 'that such measures may be taken as may be necessary and appropriate under article 4'. These notes crossed communications which were made at this time to both parties at the instance of the United States by a number of the signatories, including Great Britain, United States, France and Italy, in which their attention was called to the provisions of the pact and the hope expressed that pacific means would be found to settle the dispute.

48. Meanwhile, however, the Mukden authorities were being forced to a keener sense of the realities of the situation. On the 21st November communications were opened through Tsai Yun-sheng and the Soviet authorities in Habarovsk with a view to negotiations for peace, and eventually, on the 24th November, as the essential condition on which Russia insisted before discussions were opened, Chang Hsueh-liang wired to Karakhan his acceptance of the terms proposed by the latter on the 29th August. In his reply M. Karakhan defined these terms as—

- (1) The restoration of the preconflict situation in the railway;
- (2) The reinstalment of Emshanoff and Eistmont;
- (3) The release of Soviet citizens imprisoned in China;

and announced the appointment of M. Simanovsky, the representative of the Commissariat for Foreign Affairs at Habarovsk, as Russian delegate to discuss detailed arrangements for carrying out these conditions and the time and place of a Sino-Russian conference.¹⁹ Tsai, who was appointed to meet him, succeeded in obtaining the modification of the second of the Soviet conditions, and in the preliminary protocol²⁰ signed by the two delegates at Nikolsk-Ussuriisk on the 3rd December it was stated—

- (1) That the Mukden Government would dismiss Lu Jung-huan from the post of chairman of the board of directors.
- (2) That the Soviet Government would nominate new candidates for the posts of manager and assistant manager (but the right was reserved to appoint MM. Emshanoff and Eistmont to other posts on the railway).
- (3) That both parties agreed to be bound by the terms of the 1924 agreements.

49. The protocol of Nikolsk-Ussuriisk marked the end of the crisis. Hostilities ceased with the last air raid on Buhedu on the 29th November. But the negotiation of a detailed settlement of the dispute was postponed while Tsai returned to Mukden for instructions; and it was not until the 22nd December that a further protocol was signed at Habarovsk, in which arrangements were laid down for liquidating the state of conflict. These arrangements embodied briefly a complete return to the situation as it existed before the dispute. All the Russian employees of the railway who had been dismissed or resigned were to be reinstated, and orders issued by the management since the 10th July to be regarded as invalid unless subsequently confirmed. All White Russian employees engaged during the conflict were to be dismissed. The Russian trade organisations in Manchuria were to be allowed to reopen; and all prisoners arrested in connexion with the dispute (including those detained during the raid on the consulate on the 27th May) released. The Russian consulates in Manchuria were to be re-established and their inviolability guaranteed (China received reciprocal treatment in Russia in respect of the three latter provisions). Peace was to be restored on the frontiers 'with the subsequent withdrawal of troops'. Finally, a Sino-Russian conference was to be held in

¹⁹ See *ibid.*, vol. ii, pp. 402-3.

²⁰ This protocol is printed *ibid.*, vol. ii, pp. 405-6.

Moscow on the 25th January to regulate all outstanding questions. For this conference were reserved expressly all issues arising out of the Sino-Russian management of the railway, the general question of commercial relations between the two countries, the question of 'real guarantees for the observance of the agreements', and the resumption of full diplomatic relations.

50. These terms constituted a complete capitulation by the Chinese, who were forced to renounce every step they had taken against the Russians since the beginning of the conflict; and having obtained this the Soviet Government very wisely did not seek to exploit their victory, but seem to have concentrated on bringing about the return to normal conditions with the least possible friction. Since the end of the year the situation on the Chinese Eastern Railway has been restored quietly to what it was a year ago. The new manager and assistant manager, MM. Rudyi and Denisov, took up their duties on the 30th December. Mo Te-hui, an ex-civil Governor of Fengtien, was appointed as the new Chinese president and assumed office on the 6th January. The Soviet employees have resumed their occupations on the railway and through traffic with Europe was reopened after some delay for repairs (for the damage to the line, wrought chiefly by the retreating Chinese troops, was considerable) on the 1st February. The Russians appear to have confined their attention to recovering their position on the railway itself and no report has been received of any attempt to regain control of subsidiary activities such as the telephone system or the river fleet, the position of which is said to be reserved for discussion at the Moscow Conference.

51. The delay in assembling this conference, which has been repeatedly postponed and at the moment of writing has still not begun its deliberations, is due to the obvious unwillingness of the Central Chinese Government to face realities and put themselves in a position where they must treat as the vanquished party. It must always remain uncertain how far the Manchurian Government acted with the cognisance and consent of Nanking in concluding the Habarovsk settlement (owing to the different accounts given at various times by the Minister for Foreign Affairs and the very vague nature of the relations existing between Mukden and Nanking), and indeed it was at first reliably reported that the Central Government would repudiate the protocol. Tsai himself claimed from the outset to be acting under the instructions of Nanking as well as of Mukden and, faced with the *fait accompli*, the Central Government endorse this in order to safeguard their own prestige. The official attitude now adopted is that Tsai exceeded his mandate, which only covered the settlement of the railway dispute and that the commitments contained in the protocol with regard to the wider issues to be discussed at the conference were *ultra vires*. The Central Government concurred, however, in the appointment of Mo Te-hui, the new president of the railway, as Chinese delegate to the conference, and he proceeded to Nanking at the end of January to receive instructions. He was detained there for nearly a month and then returned to the north, where he continued to delay, possibly owing partly to his own unwillingness to enter on what he must have known would be an extremely invidious mission. The Chinese delegation only left Harbin on the 1st May, and arrived in Moscow on the 9th May. Since then, according to reports in the press, Mo has been engaged in preliminary discussions with Karakhan, the chief Russian delegate, which have as yet failed to lead to an agreement as to the agenda of the conference. The Chinese maintain, it is stated, that the Mukden Agreement of 1924 must be taken as the basis of discussions, whereas the Russians refuse to reopen questions which they regard as settled by the Habarovsk Protocol. Mean-

while, the present civil war in China, with its challenge to the authority of the Nanking Government, may well diminish the inclination of Moscow to negotiate a settlement with their representative, while behind the dilatory attitude which the Chinese have adopted since peace was restored has probably always been the consideration that it might be more to their advantage to leave outstanding questions in the air than to settle them under the shadow of Russia's recent victory.

52. If, as may well be in these circumstances, the Moscow Conference fails to eventuate or, should it meet, to reach an agreement, Sino-Russian relations will be left where they were before the Chinese Eastern Railway crisis arose; in any case, the conflict which ended with the Habarovsk Protocol forms in itself a distinct episode in these relations. The struggle between Russians and Chinese for the control of the railway is bound to continue, for here as elsewhere the Chinese in their present mood will not rest until they have ousted the foreigner from the positions of control won in previous years by technical, economic and military superiority. Only on the Chinese Eastern Railway, China is unlikely, after last year's decisive trial of strength, to resort again, at least for some time to come, to such crude and drastic methods.

53. On the rights of the dispute it is impossible to give a decisive verdict, and indeed it would be futile to discuss the question in this form, seeing that there is little to record but a series of wrongs on both sides. The original moral claim of Russia to ownership of the Chinese Eastern Railway was weakened by her declaration in 1919 of its restoration to China. Having gone back on this declaration and succeeded by the 1924 agreements in securing to herself for some time to come a dominating position on the railway, she undoubtedly abused that position by subversive political activities. In making the delinquencies of the Russian personnel an excuse for the violent seizure of the railway, China was led away by greed into putting herself in turn clearly in the wrong. Finally, the military measures adopted by Russia to restore the position, though not pressed until the Chinese had shown themselves obstinately intractable, were a direct violation of her obligations as a signatory of the Kellogg Pact. In fact, both sides, though making the misdeeds of the opposite party the excuse for their own actions, entirely ignored moral considerations from the outset and, realising that the other would be equally impervious to moral arguments, made use of whatever means they thought most suited to gain their own ends.

54. It was this factor that put the solution of the dispute through the mediation of third parties or the action of the League of Nations out of the question. Russia would probably in any case have rejected outside intervention—indeed she made this clear on several occasions. But at bottom it was the obstinate determination of China not to yield her ill-gotten gains until she was certain she would be forced to do so which made it impossible for the Powers even to propose any scheme of mediation or arbitration through the League; for in all her public declarations and the statements of her case made to the foreign Governments through diplomatic channels she never once—before the collapse of her resistance in November—admitted the possibility of an even temporary restoration of the *status quo*. It was probably just as well in the circumstances for the prestige of the League that its machinery was not called into play, for, until the supreme arbitrament of force had decided between them, neither side would have accepted a decision which did not give them all they hoped for. It seems to be one of the lessons of the dispute that Russia and China remain for the present outside the possible scope of any system of international morality based on arbitration of disputes.

55. Having said so much it is impossible not to pay a tribute to the extraordinary skill with which Russia handled the dispute. The restraint, the knowledge of psychology, Chinese and foreign, shown by the Soviet Government, and the manner in which their measures were adapted to the end in view and the means at their disposal were surprising. The situation with which they were faced in July, 1929, was one of which other Powers have had all too common experience—a forcible attack upon rights secured by treaty but which were represented as an infringement of China's sovereignty. An immediate invasion of Manchuria would not only have mobilised the whole opinion of the world against her and possibly provoked the armed intervention of Japan, but as a piece of 'imperialist' aggression it would have aroused the violent opposition of Chinese nationalism. If Russia had retaken possession of the railway by force in July (as events showed she could probably have done without difficulty) she would have placed herself in a most awkward position. No further aggression on her part would have been tolerated by Japan, and the offensive would have passed into the hands of the Chinese, who, outraged by the affront to their national self-esteem and knowing that they had nothing more to lose, would have had ample scope to exploit their favourite weapons and paralyse the railway by boycotts, agitations and strikes. Moreover, Russia's chances of political influence in China would have suffered a severe check.

56. As it was, by November the idea of the violation of Chinese territory had become so familiar that, when the Soviet raids were carried a stage further and assumed the proportions of an invasion, the adverse effect produced abroad was inevitably much diminished and it was generally realised that the chances of the affair developing into anything more than local hostilities were comparatively slight. On the other hand the Chinese in Manchuria, harassed and demoralised by raids, threats and ever-increasing tension, collapsed, both on the military and the diplomatic front, at the first application of serious pressure and capitulated at once to the Russian demands. Moreover, the predominant feeling after the settlement appears to have been not resentment at defeat but relief at the termination of an intolerable situation and thankfulness to have avoided worse evils. Here again the moderation of the Soviet Government was displayed with excellent effect. The Red troops appear to have been at pains throughout the operations to do as little damage as possible. They occupied little Chinese territory, treated their prisoners comparatively well, and are said to have released them after the signature of the Habarovsk Protocol without even waiting for the interned Soviet nationals to be set free.

57. Apart from this there was something about the Soviet methods, which is hard to define, but which suggests the treatment of China on terms of equality in a way that she has perhaps rarely been treated in the past; and I think this may not have been wholly undeliberate or without its psychological effect. The very unscrupulousness of the Russian tactics may have had something to do with it. There was no suggestion of moral—or, indeed, of overwhelming military—superiority. Both parties were frankly engaged in a dispute over a valuable piece of property, in which each was at pains to make itself as disagreeable as possible to the other. When Russia won, she took possession of her property again with as little fuss as possible, and there the dispute ended, one may almost say with mutual respect on both sides (or at least the appearance of it, for the Russian officials in Harbin appear to have gone out of their way to be civil on their return).

58. To sum up, the outcome of the dispute must, I think, be regarded as a triumph for Soviet diplomacy. Their tactics could hardly be adopted by a Western

Power, for they are incompatible with the ideas on which our present hopes of world peace are built. But it seems difficult to deny that the Soviet technique, combined of ruthless realism and semi-Asiatic subtlety, has proved itself admirably suited for dealing with the Chinese race. At the same time I do not wish it to be inferred that the Chinese will readily forget or forgive the teachers of this lesson they have received. But they have learned that lesson and will look more carefully before ever they are tempted to leap once more where Russia is concerned.

I have, &c.,

MILES W. LAMPSON

APPENDIX II

Memorandum by Mr. Charles relating to Manchuria

[F 5614/1391/10]

FOREIGN OFFICE, October 1931

The Manchurian Triangle

The necessity for an ice-free outlet for the trade of Asiatic Russia was the first cause of Manchurian Railway development and it is this Railway development which has made Manchuria one of the most explosive areas in the post-war world.

When, beginning in 1896, Russian enterprise ran railways across Manchuria in the form of a gigantic T, a new era of international development began. After the Russo-Japanese war of 1904-5, this Railway system was linked in the South East to the Japanese railways running through Korea. British capital had in 1898 built a line from Shanhaikwan North of the Great Wall to Hsinmintun, near Mukden. This line was connected with Mukden by the Japanese building a light line during the war. In 1907 the line was handed over to the Chinese and reconstructed. In more recent years (1925-9) this completed line from Peking to Mukden has become the nucleus of an extensive network of Chinese railways in the South West.

Wherever the railways in Manchuria have opened up communications Chinese settlers fleeing the wrath in China have come to find a livelihood in a new land where, in comparison with China proper, the conditions are peaceful. In one year alone (1927) more than one million Chinese entered this region, of whom about 60 per cent. remained for permanent settlement. A similar emigration of farmers from Korea has been proceeding and it is estimated that there are about one million Koreans in Manchuria who provide a troublesome minor element in the international complications. Meanwhile the eastward expansion of the Russian people goes on steadily unaffected fundamentally by changes in Government.

From Japan comes a movement of a different kind. Comparatively few Japanese farmers have taken up land in Manchuria. Many reasons are given for this. Land is difficult to obtain under present political conditions, the climate is severe except in the South and commercial possibilities more attractive. Japanese progress in Manchuria has taken the modern form of capitalistic development in transportation, mining, commerce and finance.

Manchuria is thus the meeting place of three great population movements. It is destined to be the centre of great converging economic developments and any discussion of the difficult political problems of to-day must take these factors into account. Manchuria, furthermore, shows every sign of becoming the cockpit of Asia just as Belgium has been that of Europe.

The time has gone by when any of the Powers can afford to watch with equanimity the development of unrest in this region. The 'Open Door' policy grew out of this conception. In a military sense the three Eastern provinces is [*sic*] a buffer between the Japanese, Russian and Chinese state systems. All three peoples fear being struck through Manchuria. The Russians point to the ease with which Japan could strike quickly through Dairen, Harbin and Vladivostock. The Japanese feel that Korea is a dagger pointed at the heart of Japan and the

protection of its frontiers is therefore a vital necessity to them. To China Manchuria is the historic route of invasion.

The economic and industrial factors in strategy are by no means speculative and these form a very real element in the Manchurian system. For Japan particularly access to such raw materials as coal, iron and timber, to assured sources of foodstuffs, to a growing market for the produce of her manufactures and to the profits of capital investment are as vital to her powers of defence as they are to her economic prosperity. All the problems of international intercourse which the modern world is groping to solve are concentrated in Manchuria. If economic necessities can be reconciled with national sovereignty, international co-operation with national security, population pressure with peaceful intercourse, a large part of our common problems will have been settled.

In spite of the facts that the countries immediately concerned, China, the U.S.S.R. and Japan, are signatories of the Pact of Paris which renounces war as an instrument of national policy disputes cannot fail to arise. The invocation of the pact may serve to mobilise a rather vague public opinion but there exists as yet very little peaceful machinery for the settlement and less for the prevention of disputes and particularly such disputes which touch on what nations consider their own particular interests.

To illustrate the complexity of the Manchurian problem I give underneath a brief history of that region for approximately the last forty years, mentioning the more important of the numerous treaties and agreements which have been made between the principal actors in the drama:—

Manchuria

The history of Manchuria is conveniently divisible into four periods.

1. The early period ending with the Sino-Japanese war of 1894–95.
2. The period of Russian aggression closing with the treaty of Portsmouth 1905.
3. The period of Japanese aggression, up to the Washington Conference in 1921.
4. Subsequent to the Washington Conference.

1. The early period

Little need be said about the earlier times in Manchuria since it does not much affect the purpose of this memorandum which is intended to outline the grounds for the present *impasse* in Manchuria with particular reference to the situation in which both China and Japan find themselves.

The first treaty entered into by China in regard to Manchuria was the treaty of Nerchinsk in 1689.¹ The Russians had invaded the country and were dealing with great harshness with the natives. They were compelled to retire behind the River Argun in the west and the Amur watershed in the north-east.

In 1727 a convention signed at Kiakta allowed Russian merchants certain trading privileges.²

In 1858 after the application of some pressure Muravieff obtained by the Treaty of Aigun³ the whole of the north bank of the Amur from the Argun fork for Russia and in 1860 by the Treaty of Tientsin [Peking]⁴ Russia gained the country between the Ussuri river and the sea.

¹ Printed in Hertslet's *China Treaties* (3rd ed., London, 1908), vol. i, pp. 437–9.

² Printed *ibid.*, vol. i, pp. 439–46.

³ Printed in *British and Foreign State Papers*, vol. 53, pp. 964–5.

⁴ Printed *ibid.*, vol. 53, pp. 970–9.

2. *The period of Russian aggression*

This period begins with the Sino-Japanese war which was fought to eliminate China's pretensions to the suzerainty of Korea. In the Treaty of Shimonoseki of 1895⁵ China recognized Korea's independence and ceded Formosa and other places to Japan including the Liaotung peninsula. It was Russian action backed by France and Germany which made Japan give back the peninsula.⁶

In 1895 Russia formed the Russo-Chinese Bank. This was nominally an ordinary joint-stock company formed for developing commercial relations in the Far East but it was really an agent of the Russian Government and its ultimate object was the furtherance of Russian designs in the Far East. The capital was subscribed by Russia and China but French financial interests were largely concerned from the beginning. The Bank was later known as the Russo-Asiatic Bank.

In 1896 a Treaty of Alliance was signed between Russia and China.⁷ Russia proclaimed the territorial integrity of China and in order to render her effective assistance she was granted the right to construct the Chinese Eastern Railway—'in order to facilitate the access of Russian land troops to the menaced points'.

Two years later Russia secured the lease of the Liaotung peninsula from China⁸ and began to fortify it against Japan. The cynical insolence of this act made a war with Japan inevitable.

At the time of the Boxer troubles in 1900 Russian troops occupied Manchuria and their methods of keeping the peace though brutal were effective. At Newchwang the Russian flag was hoisted and a Russian administration established. It is true that Russia gave an assurance that the occupation was temporary but she continued her demands of additional privileges. In 1902 the Anglo-Japanese alliance was concluded.⁹ Shortly afterwards Russia signed an agreement with China for the evacuation of Manchuria in eighteen months.¹⁰ The first stage of the evacuation was carried out but no more. Instead new demands were made and Russia's policy in Korea became increasingly provocative, the Yamayata [Yamagata]–Lobanoff Convention of 1896¹¹ having had no pacifying effect on Russo-Japanese relations. In 1903 the Japanese Government made a final attempt to come to terms proposing that Russia should recognize Japan's dominant interests in Korea while Japan recognized Russia's special railway enterprises in Manchuria. These negotiations were of no avail.

3. *Period of Japanese aggression*

By the Treaty of Portsmouth (1905)¹² which ended the Russo-Japanese war Japan succeeded to the Russian rights in the Chinese Eastern Railway as far north as Changchun including the lease of the Liaotung peninsula on which she developed the modern port of Dairen. Russia also recognized Japan's paramount military, political, [and] economic interests in Korea. The subsequent annexation of Korea in 1910 secured to Japan a frontier on the mainland and the building of a

⁵ Printed *ibid.*, vol. 87, pp. 799–805.

⁶ See *ibid.*, vol. 87, pp. 805–6, and pp. 1195–7.

⁷ See John V. A. MacMurray, *op. cit.*, vol. i, p. 81.

⁸ See the agreements of March 27 and May 7, 1898, printed in Hertslet's *China Treaties*, vol. i, pp. 505 f.

⁹ See Series I, Volume VI, Chapter II, Introductory Note.

¹⁰ The agreement of March 26, 1902, printed in Hertslet's *China Treaties*, vol. i, pp. 509–12.

¹¹ Printed in *British and Foreign State Papers*, vol. 88, pp. 471–2.

¹² See No. 505, note 4.

line connecting Mukden with the Japanese railway system in Korea gave Japan easy access to Manchuria by rail. The Anglo-Japanese alliance was renewed in 1905.

China's position was not greatly altered by the Portsmouth Treaty, for although she regained administrative control of Manchuria she had now two Powers to deal with instead of one.

The terms of the Treaty of Portsmouth were confirmed by China in a Treaty of December 1905.¹² To this was attached an additional agreement¹² opening certain towns in Manchuria to foreign trade and more or less regulating the position of the railway guards. Finally in a secret protocol arrangements were made concerning Japanese loans for the construction of railways and the Chinese undertook to build no line near or parallel to the South Manchurian Railway.¹³ Supplementary agreements were signed in 1907, 1908 and 1909.¹⁴ The South Manchurian Railway Company was established in August 1906 by Imperial Decree. The President, Vice-President and Directors are all government nominees and the strictest control is exercised by the Tokyo Government. Many complaints were made from now on by foreign merchants who accused the Japanese of trade discrimination against them. The Japanese Government categorically denied this and asserted their firm intention to carry out both in Manchuria and Korea the principle of the 'Open Door'.

In 1907 Russia and Japan concluded a convention binding themselves to respect their respective territory and rights acquired from China and proclaiming their recognition of the independence and territorial integrity of China.¹⁵ Japan in the same year signed a similar treaty with France.¹⁶

By the Root-Takahira agreement of 1908¹⁷ the United States and Japan proclaimed their intention to maintain the *status quo*, to support the independence and integrity of China as well as the principle of equal opportunity for all.

In 1908 [1909] the famous Knox proposal was made that a loan should be advanced to China for the repurchase of all railways in Manchuria and that pending its repayment, they should be put under international control:¹⁸ Russia and Japan would have nothing to do with such a scheme and they proceeded to sign another convention in 1910¹⁹ in which they pledged themselves to maintain the *status quo* in Manchuria as arranged by Treaty and to consult with one another regarding measures for its defense [*sic*].

In 1910 [1909] the Chientao agreement was signed between Japan and China by which Chientao the region bordering on Korea was recognized as Chinese territory. It was settled that jurisdiction should remain with China but that Japanese consuls might be present when questions affecting Koreans were tried.²⁰

In 1913 and 1915 various railway agreements were concluded whereby Japan lent money for the construction of three important railways.²¹

¹² See No. 505, note 4.

¹³ See No. 728, note 2.

¹⁴ For these agreements see John V. A. MacMurray, *op. cit.*, vol. i, pp. 627-9, 632-4, 767-9, and 782 f.

¹⁵ Printed in *British and Foreign State Papers*, vol. 101, pp. 462-3.

¹⁶ Printed *ibid.*, vol. 100, pp. 913-14.

¹⁷ Printed *ibid.*, vol. 101, pp. 1036-8.

¹⁸ See Series I, Volume VI, No. 510, note 9.

¹⁹ Printed in *British and Foreign State Papers*, vol. 103, p. 586 and vol. 105, p. 979.

²⁰ See No. 505, note 7.

²¹ See John V. A. MacMurray, *op. cit.*, vol. ii, pp. 1054 and 1249-58.

In 1915 when all the European Powers were busily occupied with the war Japan presented her famous twenty-one demands to China.²² They were in five groups, four of which were subsequently communicated to the Powers. The second group opened with the assertion that the Chinese Government had always recognized the predominant position of Japan in South Manchuria and East Inner Mongolia and it contained the following demands: (1) extension of the leases of Port Arthur and the South Manchurian Railway for ninety-nine years, (2) the right for Japanese subjects to lease and own land in South Manchuria and East Inner Mongolia, (3) freedom for Japanese to travel and engage in business and manufacture, (4) Japanese should receive mining rights, (5) Japan should give her consent before China gave rights to any other power in connexion with railways or loans and (6) Japan should furnish political, financial and military advisers. The third article of the fifth group expressed the wish that the police in certain localities should be placed under joint Japanese-Chinese administration.

The sweeping nature of these demands filled China with consternation but she bowed to the inevitable and finally signed two treaties, one dealing with Shantung (which was subsequently annulled at the Washington Conference)²³ and the other with Manchuria. There were also a number of notes exchanged on various subjects.²⁴ Japan's demands were somewhat modified but her gains remained substantial:—

1. The extension of the leases of the Liaotung Peninsula and the South Manchuria Railway.

2. The right to lease land, and erect buildings for trade, manufacture and agriculture: to travel and reside and engage in business: to undertake agricultural enterprises in co-operation with Chinese.

3. Certain places in East Inner Mongolia were opened to trade.

There were a number of important provisions concerning jurisdiction where Japanese were concerned.

In an official statement issued subsequently the Chinese Government declared that although it was constrained to comply with the Japanese terms it disclaimed any desire to associate itself with any revision which might be thus effected by [of] the various treaties concluded between other Powers in respect of the maintenance of China's integrity, the preservation of the *status quo* and the principle of equal opportunity.

The United States Government was the only power in a position to protest against the 1915 treaties. It did so by sending identical notes to the Chinese and Japanese Governments stating that it declined to recognise any agreement which impaired the treaty rights of the United States Government, the political or territorial integrity of China and the principle of the 'Open Door'.²⁵

The ink of the 1915 treaties was hardly dry when China and Japan were involved in the Chengchiatun incident. A quarrel took place in which some Japanese soldiers and a civilian were killed. Japan demanded punishment for the guilty and the right to station police where necessary for the protection of their nationals. The dispute dragged on and Japan finally dropped her demand in regard to police.

In 1916 Japan and Russia to assure their dominant position in Manchuria made

²² See No. 1, note 28.

²³ The words in brackets were added by Sir J. Pratt.

²⁴ See No. 406, note 1.

²⁵ See *Foreign Relations of the United States 1915*, p. 146.

a treaty in which each government bound themselves not to be parties to any arrangement directed against the other and to confer as to measures for their mutual defence. A secret military alliance was also concluded by which they engaged to come to each other's assistance in case measures taken by one of them in defence of their interests resulted in war with a third Power.²⁶

A short while later negotiations were in process for the sale of a southerly portion of the Chinese Eastern Railway to Japan but before the transaction was completed the Tsarist régime was overthrown. Russia for the time being ceased to be an important factor in Manchurian politics and Japan was not slow to take full advantage of the situation. Between 1917–1920 five loan agreements of various kinds were concluded either with the Central Government at Peking or with the Provincial authorities at Mukden.

In 1918 took place the allied intervention in Siberia on the initiative of the United States for the purpose of protecting the vast stores of war material at Vladivostock and assisting some 50,000 Czecho-Slovak troops to escape from Siberia. In 1919 all allied troops were withdrawn with the exception of the Japanese who remained on until 1922, after having become involved in open hostilities with the Soviets.

The orgy of reckless borrowing by the Chinese—and here may be mentioned the Japanese (Nishihara) loans—called into being in 1920 the new Consortium by which it was agreed that American, British, French and Japanese banks should share in all Chinese Government guaranteed loans.²⁷ The United States were responsible for the scheme which was at first opposed by the Japanese who strongly disapproved of any tampering with Japan's special rights and privileges. The United States and His Majesty's Government refused to see Japan's point of view on the ground that Manchuria and Mongolia were component parts of China and that the special rights referred to had nothing to do with economic matters. The new Consortium has so far accomplished nothing.

The Open Door (Washington Conference)

This expression was first used in a circular note from the United States Secretary of State in 1899²⁸ who requested that Powers claiming spheres of interest in China should not interfere with Treaty ports or vested interests, or enforce other than Chinese tariffs, etc.²⁹ The term was finally clearly defined in the Nine Powers Treaty at the Washington Conference in 1921. Although complaints have been made at breaches of principle of the Open Door by the Japanese these have very rarely been substantiated. Nevertheless when allowance is made for the inevitable accidental geographical advantages enjoyed by her, it is difficult to avoid the conclusion that her general policy in Manchuria has been directed towards the creation of a monopolistic sphere and contrary in spirit to the principle of the Open Door and her own declaration in the Treaty of Portsmouth. The following are examples of this policy. They are however pre-Washington Treaty:—

(1) the provision in the secret protocol of the agreement of 1905 binding China not to build railway lines in the vicinity of the South Manchurian Railway,

²⁶ For these treaties see John V. A. MacMurray, *op. cit.*, vol. ii, pp. 1327–8: see also Series I, Volume VI, No. 467, note 4.

²⁷ See No. 1, note 30.

²⁸ For the use of this term in 1898 by Mr. Joseph Chamberlain see J. L. Garvin, *The Life of Joseph Chamberlain* (London, 1935 f.), vol. iii, p. 283.

²⁹ See *Foreign Relations of the United States 1899*, pp. 128 f.

- (2) the stipulations in the Kirin-Changchun and Ssupingkai railway agreements obliging China to apply first to Japan should capital be required,
- (3) similar clause in Treaty of 1915 regarding railways and loans,
- (4) the obligation in the Ssupingkai agreement to give preference to Japanese material,
- (5) the promise wrung from China in 1915 that if advisers on political, military, financial or police matters were needed in South Manchuria, Japanese subjects would be employed first.

The treaties and agreements based on the twenty-one demands which had already formed the basis of unsuccessful representations by China at the Paris Peace Conference in 1919 were brought up again at Washington, the Chinese urging that since they had been forced upon China it was in the interest of all parties that they should be reconsidered. The proposal was opposed by the Japanese who maintained that if the subject was to be discussed at all it should be by the two countries immediately concerned. Later Baron Shidehara definitely refused to consider China's proposal contending that a dangerous precedent would be established if it was once admitted that rights granted by treaty could be revoked on the ground that they had been conceded unwillingly. He added that:

1. Japan was willing, subject to the condition that no modification was made in the new Consortium agreement, to pool her exclusive right of option for railway and other loans in South Manchuria and East Inner Mongolia.
2. She would not insist on her preferential rights regarding advisers in South Manchuria.
3. She would completely withdraw the fifth group of the twenty-one demands.

The Chinese Delegation declared that a still more dangerous precedent would be established if it were admitted that a strong nation was at liberty to wring from a weaker one concessions which were not in satisfaction for pending controversies and for which no *quid pro quo* was offered. Further the Delegation urged that they should be annulled on the grounds that the treaties were wholly unilateral, that in important respects they violated those already existing between China and other Powers, that they were inconsistent with the principle regarding China adopted at the Conference and that they had and would continue to engender misunderstanding between the two countries.

Mr. Hughes, the head of the American Delegation reiterated America's traditional policy which was that of 'equality for the nationals of all countries'. With that the matter ended and China's attempt to obtain redress failed.

In 1923 when the expiry of the original lease of the leased territory was due China again vainly called upon Japan to abrogate the objectionable treaty and agreements.

It is improbable that a more successful arrangement could have been reached at Washington in any case. Japan will not leave Manchuria of her own free will. She has again and again laid stress on the sacrifices the nation made in life and treasure during the war with Russia. Manchuria is her first line of defence; enormous sums of money estimated at about £200,000,000 have been invested there in one form or another. Japan's presence in Manchuria is a case of necessity which knows no law. Nor can it be said that she alone benefits. When Japan succeeded Russia in 1905 the country was undeveloped and its possibilities were not realized. In 1907 the trade of Dairen was valued at about £8 million; in 1927 it was £47 million. To this remarkable development the Chinese inhabitants and

immigrants have materially contributed but much more is it due to Japanese enterprise and to the security of life and property which Japanese influence and authority have been able to ensure, making of Manchuria a haven of peace while the rest of China was in chaos.

4. *Subsequent to the Washington Conference*

China, having failed to obtain the redress she cried for at the Washington Conference has for some time past been asserting herself by all the means in her power. In Manchuria this mood expresses itself in a disposition to disregard the special privileges acquired by the Japanese and the rights of foreigners generally by the initiation of programmes of railway development on lines suited to Chinese requirements regardless of whether these are prejudicial to Japanese and Russian interests and by a systematic attack on the position of the Chinese Eastern Railway.

With regard to the first it will be sufficient to instance the persistent refusal of the Provincial authorities to grant the Japanese the leasing and other privileges conferred on them by the Treaty of 1915, the indifference shown to Japanese protests against the construction of certain railways in the neighbourhood of the South Manchurian Railway and the endeavours to impose illegal taxes on foreign goods generally.

Until the close of the Great War China was more or less an unwilling party to the various railway agreements which she signed. A significant development in recent years is the interest which all Chinese are showing in this direction both for economic and military reasons. The serious dilemma in which Chang Tso-lin was placed in 1925 by the refusal of the Chinese Eastern Railway to transport troops sent to his assi[s]tance impressed on the Mukden authorities the desirability of building lines of their own. For reasons of a similar nature they would like to be independent of the South Manchurian Railway. The building of a number of purely Chinese lines proves China's disregard for foreign susceptibilities. They have been built in the face of both Russian and Japanese protests.

The South Manchurian Railway is likely to remain the dominant factor in the South and by means of liens on Chinese lines its influence is penetrating well into the North. It is inevitable that this influence should increase as long as the Chinese remain dependent on Japanese assistance in carrying out their schemes of construction. In any case, the bulk of the transport trade must gravitate to ports in Japan's possession.

In the last two or three years the Chinese have become bolder in the measures they have adopted to uphold what they consider to be their rights so that first the Soviet Government and now recently the Japanese have found the situation unbearable. Both have been driven desperate and the Japanese were no doubt encouraged in taking drastic action by the easy and instantaneous success achieved by the Soviet Government in 1929 in the dispute over the Chinese Eastern Railway.³⁰

In 1920 the Peking Government came to an agreement with the Russo-Asiatic Bank³¹ which had been reorganized with the connivance of the Tsarist Embassy in Paris. The Chinese Government announced their intention of assuming supreme control of the railway pending the conclusion of an arrangement with a recognized Russian Government and of resuming the advantages conferred on China by the

³⁰ For this dispute see Appendix I.

³¹ This agreement is printed in *Treaties and Agreements with and concerning China, 1919-1929*, pp. 29-31.

contract of 1896.³² Amongst these was the payment of five million taels, the appointment of a Chinese president and four directors. Railway appointments were to be shared and Russian consular courts in the railway area were to be closed. The result, when the Chinese courts began to function, was deplorable and the inefficient administration of the railway led the United States to raise the question at the Washington Conference. It was explained that while in no way interested in its ownership America was anxious that the line should be maintained as an artery of commerce on the basis of equality for all and some form of international control was proposed. This the Chinese opposed and the only decision arrived at was that the railway should be better protected. The Powers reserved the right to insist on China's responsibility towards the stockholders.

In 1922 further discussions took place between the Chinese Government and M. Joffe who had been sent on a mission to obtain the recognition by China of the Soviet régime. Irritated by the little success of his visit M. Joffe informed the Chinese that the promise made by the Bolsheviks that the Chinese Eastern Railway would be restored to China without claim for compensation did not mean that Russia had renounced all her interests in the line. Following this attacks on the railway were renewed until 1924 when China finally recognized the Soviet Government and an agreement which changed the whole position to China's political advantage was concluded.³³ By this both parties engaged to annul at a future conference all treaties concluded between China and Tsarist Russia and concurred in a settlement of the railway problem on the principle that, with the exception of matters pertaining strictly to the operation of the line, everything affecting the rights of the national and provincial Governments of China such as judiciary, civil administration, police and land should be placed under the jurisdiction of the Chinese authorities. The Soviet Government also declared void all treaties concluded between their predecessors and third parties which affected the rights of China, formally recognized Outer Mongolia as an integral part of China and consented to the redemption of the railway by the Chinese Government. The arrangements which were to be made at the second conference fell through owing to the rupture of diplomatic relations after the raid on the Soviet Embassy in Peking in April 1927.

Chang Tso-lin who had declared his independence of Peking, was dissatisfied at the arrangement and in 1925 [1924]³³ he made a separate agreement with the Soviet but on practically the same lines as that concluded at Peking with the exception that the period of railway concession was reduced from 80 to 60 years. The signing of this agreement was most gratifying to Chang Tso-lin since it meant practical recognition by Russia of his independence. As a mark of his gratitude he acquiesced in the dissolution of the existing board of directors and the appointment of a communist as general manager. Disputes soon arose and were aggravated in 1925 when the railway authorities refused to transport troops which were being sent to the assistance of Chang Tso-lin. The Chinese then demanded the division of funds of the railway equally between Chinese and Russian banks and the reduction of the powers of the general manager. The Russians refused to agree but in 1927 the Chinese won their point. Chang Tso-lin's further designs were cut short by his assassination in 1928, but it was clear that the Russians could not acquiesce indefinitely in the inexhaustible Chinese demands. These culminated

³² This contract between the Chinese Government and the Russo-Chinese Bank is printed by John V. A. MacMurray, *op. cit.*, vol. i, pp. 74 f.

³³ See Appendix I, note 6.

in July 1929 in the forcible seizure by the Chinese of the company's offices at Harbin, the arrest of the general manager and the taking over the control of the whole railway. China miscalculated the public opinion of foreign countries and the ability of the Soviet Government to enter any effective protest against arbitrary action. It will be noted that China had not made any public appeal to world opinion by reporting its case to the League, the World Court or the Washington treaty powers. She apparently considered that it was a matter which concerned China and the U.S.S.R. The weakness of the Pact of Paris was disclosed in the inability of its chief signatories to do more than mobilise to a tepid degree public opinion against a breach of the peace. Negotiations for the termination of the dispute between China and Russia are still taking place at Moscow.

In the meantime the Soviets were busy consolidating themselves in Mongolia. As a result of the Chinese revolution in 1911 that country declared its independence. Russia lent Mongolia her assistance and in 1915 the Kiakta Convention³⁴ definitely established Mongolia as an autonomous state. In 1919, however, China took advantage of Russia's collapse to re-establish her sovereignty.³⁵ In 1921 the Bolsheviks came to the assistance of the Mongols. The Chinese were driven out and in 1924 a republican Government on the Soviet model and completely under Soviet influence was established. Russian policy is directed towards the ultimate union of the country with the other Soviet republics although in the Agreement mentioned above Russia recognised Mongolia as an integral part of China.

In the earlier part of his career Chang Tso-lin showed himself accom[m]odating towards the Japanese but later he became more intractable and developed an ambition for great things. This involved him in pecuniary as well as military difficulties. From these the Japanese, in pursuance of their often expressed determination not to allow the tranquillity of Manchuria to be disturbed, on more than one occasion rescued him. The obstinacy with which he persisted in these schemes in spite of their advice, irritated them and their relations became strained. In 1927 he succeeded in making himself master of Peking. In 1928 he was driven northwards by the Nationalist Government. Japan intervened and urged him to retire with his troops into Manchuria warning him that if he did not do so his way would be barred by Japanese forces at Shanhaikwan since the Japanese Government were determined that there should be no fighting in Manchuria. It was on his return to Mukden that Chang met his death.

Chang Hsueh-liang, his son, was a man of an entirely different kind and had always been known for his nationalist sympathies. He was warned to be careful by the Japanese Consul-General at Mukden and by Baron Hayashi who was specially sent over to Manchuria for that purpose. Shortly afterwards the Japanese Prime Minister Baron Tanaka made a statement in Tokyo that Japan would not oppose the union of Manchuria with Nationalist China. Chang Hsueh-liang was soon a State Councillor of the Nanking Government and before the end of the year he was made Commander of the North-Eastern frontier force. On the 29th December 1928 he hoisted the nationalist flag at Mukden.

Present Issues

The most important outstanding problem between China and Japan is the question of the administration of the railway zone and the leased territory of

³⁴ Printed in *British and Foreign State Papers*, vol. 110, pp. 810-14.

³⁵ See Series I, Volume VI, Chapter II, *passim*.

Kwantung. There is first of all a disputed interpretation of the clause in the treaty³⁶ relating to the right of administration. Arising from this are disputes concerning extensions of administration. Then come differences of opinion as to the proper use of the railway guards and foreign abuses of extraterritorial privileges.

An even more difficult question is that of the validity of the 1915 Sino-Japanese treaty by which the period of lease was extended from 24 to 99 years.³⁷ With this goes the fundamental problem of the sanctity of treaties complicated by changing political and economic conditions.

The Chinese demand the retrocession or redemption of Japan's present rights—except perhaps those of a purely economic character. The Japanese reaction to such proposals is determined partly by the economic, strategic and political situation of Japan, but also to a very large extent in [*sic* ? by] her disbelief in the ability of the Chinese authorities at the present time to discharge the functions of government.

The legal basis both for the leased territory and railway zone is to be found in the Treaty of Portsmouth and subsequent agreements. Of the numerous obligations six are distinguished as being of special importance to Japan.

1. The lease of Kwantung Province.
2. The right to operate the South Manchurian Railway and to station railway guards.
3. The right of management on the commission of special railway lines and operation or construction of railway lines by joint undertaking.
4. The right to undertake certain mining and lumber enterprises.
5. The right to issue and circulate bank notes.
6. The right of free residence in the interior of South Manchuria.

There is a divergence of opinion as to what the rights of administration were which were transferred to Japan by the Treaty of Portsmouth and other agreements. The Chinese contend that these rights were intended to be rights of business management rather than of government. Until the Sino-Russian *rapprochement* of 1920-4 the Chinese Government was not able to secure any acceptance of this view. Since 1924 the Chinese Eastern Railway has been divested of its political attributes but there has been no change in the position of the South Manchurian Railway. It will be remembered that the United States have never interpreted the word administration to mean political rights but has relied on its treaty rights and extraterritoriality.

The various towns along the railway were developed and governed as an essential part of the enterprise. Municipal administrations were set up involving the levying of taxes, police, etc., but the Chinese challenge their status as they challenge other concessions in China.

The Japanese took over with the lease of the Liaotung peninsula all the Russian rights including all attributes of sovereignty except the ultimate right of resumption. There has been no challenge to this position. Nor was there until the Washington Conference any protest either by China or by other Powers against the administrative rights exercised by Japan in the railroad zone and railway towns outside the leased territory.³⁸

³⁶ The Treaty of Portsmouth: see below.

³⁷ See No. 505, note 5.

³⁸ A marginal note by Sir J. Pratt here read: 'The Chinese never admitted that "administration" meant political administration and frequently raised the question of police rights and stationing of railway guards.'

The lease of the Kwantung territory would have expired in 1923, but by the treaty entered into as a result of the 21 demands an extension was secured for a term of 99 years. The Chinese, as stated above, question the validity of this treaty. The Japanese, of course, uphold it. There is no argument possible over this fundamental stumbling block in Chinese-Japanese relations. A Chinese delegate to the Conference of the Institute of Pacific Relations at Kyoto in 1929 summed up the situation. 'It is futile to go into the question of treaties—Japan has its rights and China takes its position. There is a deadlock. You cannot argue with a Chinese about the 21 demands or with a Japanese about the 1915 treaties. We recognise that this causes strained relations between China and Japan. We must make a detour and avoid this stumbling block.'

Japanese who are not officials will take the same view, but the Japanese Government is bound to uphold the sanctity of treaties. To the Japanese the question of retrocession of the leased territory does not enter into the realm of practical politics. Their case is essentially based on practical economic and governmental grounds. They do not regard the time as opportune, nor the conditions of Chinese government as adequate to provide the protection necessary to Japanese economic interests. Nor will Japanese admit that the Russian eclipse in the Far East is anything more than temporary. Indeed they regard a return of Russian pressure as inevitable and doubt either the ability or willingness of the Chinese to protect Japanese interests if an emergency arose. The Chinese are well known to play off one rival against the other. At the same time the Japanese point to the admitted efficiency of the Japanese administration and urge that it is the most stabilising influence in Manchuria today. The Chinese take full advantage of it by congregating in the Japanese controlled areas in the same way as they utilize the foreign Concessions in China when in search of peace and security.

Returning to the details of the case, the Chinese object to the use of Japanese railway guards in the railway zone. The right to maintain such guards was contested by China as early as the disputes with Russia³⁹ over the Chinese Eastern Railway in 1908-9. After the Soviet revolution China took over the responsibility though in 1918 Japan asserted her right to safeguard the effective working of the railway. This right was not recognised by the Powers and by the subsequent Sino-Russian negotiations of 1920-24 China secured the withdrawal of Russian claims. This withdrawal is urged as an additional reason why Japan should before now have withdrawn her guards. The treaty terminating the Russo-Japanese war was supplemented by a protocol, however, which allows the number of guards protecting the railways to be '15 per kilometre on the average'.⁴⁰ An additional agreement (article 2) to that treaty⁴¹ contains a clause that 'when tranquillity shall have been established in Manchuria and China shall have become capable of affording full protection etc., Japan will withdraw her railway guards simultaneously with Russia'. The Japanese, of course, state that tranquillity has not yet been brought about. They have the right under the 1905 treaty to retain some 12,000 men in the railway zone and with these they have kept order there. They have maintained it as neutral territory between contending factions of Chinese and have prevented either the use of the railway or the crossing of the zone by

³⁹ A note by Sir J. Pratt suggested that this word should read 'Japan'.

⁴⁰ See No. 517, note 3.

⁴¹ i.e. the Treaty of Peking: see note 12 above.

military forces. The Chinese claim that such measures are an altogether unjustified foreign interference with the natural progress of the revolution.

Consular Police

A special grievance of the Chinese is the existence in the interior of Manchuria outside the treaty zone, of Japanese consular police. Since Japanese Consuls are linked up with the Kwantung Government, the police under their control, like the railway police, function under the general control of the Japanese Government. In the first place the Chinese assert that their presence is a definite infringement of Chinese sovereignty in the same way as are the continuance of Japanese post offices on Chinese soil despite the agreement at the Washington Conference.⁴² In the second place they claim that the maintenance of extraterritorial and other privileges by the use of armed forces enable[s] Japanese nationals to defy Chinese laws. Further Japanese subordinate officials are accused of drastic interference with Chinese citizens in Chinese territory.

There does not appear to be any specific treaty agreement for the practice of stationing consular police in the interior of Manchuria. It is questionable whether the right to station police with consulates is a general privilege of extraterritoriality. In regard to the question of post offices, their status in leased territory is not contested but according to the resolution taken at the Washington Conference there should be an agreement between the two Governments and an agreement was reached between the Chinese and Japanese governments that the *status quo* should be maintained as it was in 1910.

The presence of about a million Koreans complicates the relations between Japan and Korea [*sic*]. They are responsible for introducing rice cultivation in Manchuria and they complain that when they improve the land, the landlord turns them out. The Chinese complain that wherever the Koreans go Japanese Consular police follow them. They are not allowed to become naturalized Chinese citizens as then the Japanese could not control them but it is doubtful if many of them would care to lose their Japanese nationality and thereby Japanese protection.

The situation in regard to the leasing of land in the interior has already been alluded to and is by no means satisfactory to the Japanese. The right to lease land was recognized in the treaty of 1915 but it was only recognized on paper for soon afterwards the Chinese Government issued an order prohibiting Chinese subjects under heavy penalty from contracting leases with Japanese. This obstruction is regarded by Japanese as one of the reasons why there has been so little emigration of Japanese farmers to Manchuria and they wonder what would be likely to happen if they had no treaties to which they could appeal.

Foreign Interests

While China, Japan and Russia may be said to have the most vital and direct interests in China it is evident that many other Powers are also concerned. They have a general interest in any situation that threatens to provoke a conflict which may spread into world-war and further they cannot neglect the possibilities of expanding trade and of capital investment.

Before the Russo-Japanese war Great Britain and the United States were the most important commercial powers in South Manchuria being specially interested in the trade in cotton and oil. British interests were concerned also in the railway built from Tientsin towards Mukden. Their investments in this line now amount

⁴² See the resolution of February 1, 1922, printed in Cmd. 1627, pp. 54-55.

to £18 million. Great Britain has large trading interests, imports and exports of British goods approximately balancing at a value of about £2½ million. In addition there are substantial commercial, banking and manufacturing investments. In recent years American trade which in 1908 totalled \$33 million, has increased faster than that of Great Britain. The South Manchurian Railway is said to have imported at least \$75 million worth of American materials and that [sic] the importation[s] for Chinese railways which have been built in recent years have been even greater. Other foreign interests are substantial and cannot be ignored.

The first incident of international importance after the Russo-Japanese war was the controversy that arose over the project for the construction of Chinese railways with British capital. These projects were objected to by Japan on the ground that China had secretly agreed to a secret protocol to the treaty of 1905 engaging not to permit the construction of any railways parallel with or likely to prejudice the South Manchurian Railway.

The controversy is complicated by the effort of the Japanese between 1905 and 1922 to secure international assent to the doctrine that Japan had 'special interests' in Manchuria. The exact definition of this doctrine was never made clear. It was at one time accepted by the United States Government in a vague sense but any implications that it carried special economic or political privileges in Manchuria beyond those enjoyed by other Powers were finally dispersed by the Washington Conference. The same may be said of the decisions regarding Japan's 'special rights' of semi-official financial groups such as the Consortiums. The American scheme for neutralization of the railways put forward by Senator Knox was defeated by the Japanese, as we have already noted. The Consortium agreements explicitly excluded Manchurian railways from their plan of operations though the reorganized Consortium of 1920 did include one such railway, which, however, was later built with Chinese capital.

The most notable result of the Washington Conference in this connexion was the formal enunciation once more of the policy of the Open Door. This policy has been the cardinal element in the relations between all Powers concerned with China. It stands for the recognition of the territorial integrity of China and of the principle of equality of trading rights.

The preceding summary though brief for the complexity and importance of the subject under review, may yet be considered sufficient to indicate that there cannot fail to be a serious state of tension between the Chinese and Japanese. There are enough incidents to provide ample material for inflaming public opinion on either side. Little hope exists of agreement upon treaty rights entered into at a time when conditions differed greatly from those of the present day. The Japanese assert their willingness to relinquish political privileges when China shall have displayed her capacity to discharge the ordinary functions of government. The Chinese on the other hand demand some change in the *status quo* as a condition precedent to negotiations for a better understanding. In the opinion of the Japanese their established interests in Manchuria are accomplished facts. Nothing can do away with them unless it be some future arbitrary use of force employed against the peace of the Far East and at the same time against the acquired rights and security of Japan. The following extract from a thesis written by Professor Masamichi Royama at the meeting of the Institute of Pacific Relations in 1929, I think, sums up the mentality of most intelligent Japanese outside the fighting services and 'diehards' of whom there are a number in most countries:—

'Granting that the means which Japan employed for the purpose of acquiring

treaty rights in Manchuria were in some respects regrettable, the Japanese people are unanimous in their conviction that these acquired rights are absolutely necessary in order to maintain Japan's position in Manchuria.' 'All these events, taken together, seem to indicate that it will be impossible for Japan to achieve success in her diplomatic dealings with China regarding Manchuria should she in practice even though not in form, adhere to her past policies. Under the new circumstances a new principle and technique will be required to regulate the relations between Japan and Manchuria in future. The fundamental idea of diplomatic dealings regarding Manchuria must be harmony in the relations of Japan and China as well as in the wider relations of the Pacific area, and full recognition of the fact that Manchuria is a part of united China. Most important of all is the promotion of amicable feelings between China and Japan, for without this it will be the more difficult to settle the somewhat strained relations between them regarding the Manchurian situation.'

A list of treaties concerning Japan's position in Manchuria is attached.

N. C.

ANNEX

1. Lease of Kwantung Province.
 Portsmouth Treaty (1905), Article 5.
 Treaty between Japan and China concerning Manchuria (1905), Article 2.
 Sino-Japanese Treaty (1915), Article 1.
2. Right to establish Japanese Settlements at Antung, Mukden and Yinkow.
 Additional Agreement to the Treaty between Japan and China concerning Manchuria (1905), Article 9.
3. Right to enforce the Promise of Non-Cession of Ports and Islands in China.
 Decree of the President, Official Bulletin of the Chinese Government (May 30th, 1905 [*sic*]⁴³).
4. Jurisdictional Rights in Manchuria and Mongolia at large.
 Commercial Treaty between Japan and China (1896),⁴⁴ Articles 21-22.
 Sino-Japanese Treaty (1905 [1915]), Article 5, Clause 2.
 Agreement regarding Chientao (July [September], 1909), Article 4.
5. Right of Priority in the Employment of 'Special' Officials. (That the Japanese Government has no intention of insisting upon this right was declared in a statement made by the Japanese delegation at Washington Conference.)
 Sino-Japanese Treaty (1915), Communication Document, No. E.
 Agreement regarding the Chengchiatun affair (1916).⁴⁵
 Agreement concerning the postal services in the attached region of the South Manchurian Railway (1922), in accordance with the resolution of the Washington Conference.
6. Demands regarding Administrative Regulations.
 Statements of the Chinese Government regarding Peace and Order in

⁴³ The reference is uncertain but is possibly to the Presidential mandate of May 13, 1915, printed by John V. A. MacMurray, *op. cit.*, vol. ii, p. 1215.

⁴⁴ Printed in *British and Foreign State Papers*, vol. 88, pp. 473-80.

⁴⁵ i.e. the Sino-Japanese arrangements of January 12-22, 1917: see No. 687, note 12.

Manchuria, in the minutes of the Sino-Japanese Treaty (1905).

Additional Agreement to the Sino-Japanese Treaty (1905 [*sic* ? 1915]).
Article 5.

7. Right to operate the South Manchurian Railway.

Portsmouth Treaty (1905), Article 6.

Russo-Chinese Agreement at Berlin (1896), Article[s] 5-6.

Sino-Japanese Treaty (1915), Article 1, Additional Agreement (1915).
Communication Document. No. A.

8. Other rights regarding railroad operation by consignment or on joint management.

Sino-Japanese Agreement regarding the Hsinmin-Mukden railway and the Kirin-Changchun railway (1907).

The additional agreement to the above Agreement of 1907.

Chientao Agreement (1909), Article 6, regarding the Kirin-Huining railway.

Agreement regarding the Manchurian problems (1907 [*sic* ? 1909]).

Sino-Japanese Treaty (1905), Article 7.

Communication Documents concerning the Four Railway Lines in Manchuria and Mongolia (1918).⁴⁶

9. Mining rights and priority rights in negotiations regarding the disposition of mining interests.

Sino-Japanese Agreement regarding the five Manchurian problems (1909).
Article 3.

Sino-Japanese Treaty (1915), Communication Document, No. C.

10. Right of joint undertaking in forestry and priority in negotiations regarding the disposition of forestry.

Sino-Japanese Treaty regarding Manchuria (1905 [*sic* ? 1915]), Article 4.

Sino-Japanese Treaty (1905), Additional Agreement, Article 10.

Lease [*sic* ? loan] contract concerning forestry and mining in Kirin and Heilungkiang Provinces (1918).⁴⁷

11. Rights based on the 'accomplished facts' regarding the issuance and circulation of bank-notes.

Issuance of the army certificates during Russo-Japanese war.

Circulation of the sight bills issued by the Yokohama Specie Bank.

Circulation of the bank-notes of the Bank of Korea (prohibited by force in the railroad zone of the Chinese Eastern Railway).

Sino-Japanese Treaty (1915), Article 7.

Communication Document regarding four railways in Manchuria and Mongolia (1918).

12. Right to establish post offices.

Sino-Japanese Agreement (1922) according to the decision of the Washington Conference.

13. Right to operate telegraph and telephone services.

A cable line between Dairen and Chiefu in accordance with Sino-Japanese Agreement concerning telegraphic service (1909) [1908].⁴⁸

Founding of a wireless station at Dairen (1911).

⁴⁶ See John V. A. MacMurray, *op. cit.*, vol. ii, p. 1450.

⁴⁷ See *ibid.*, vol. ii, pp. 1434 f.

⁴⁸ See *ibid.*, vol. i, pp. 760 f.

Resolution of the Washington Conference (Dec. 7th, 1921), Clauses 3-4.⁴⁶

14. Rights of holding land leases, of travelling, residing, and conducting business.
Sino-Japanese Treaty (1915), Article[s] 2-3.
The same, Communication Document (1915), No. F.
15. Right to be consulted on matters of police regulations and taxation.
Sino-Japanese Treaty (1915), Article 5, Clause 5.
Communication Document, No. A [*sic*] (1915).
Statements of Japanese Minister Hayashi made to Chinese Foreign Minister Wu. (October 18th, 1916 and January 5th, 1917.)
16. Right to station railway guards.
Portsmouth Treaty (1905), Additional Agreement, Article 1.
Sino-Japanese Treaty concerning Manchuria, Additional Agreement, Article 2 (1905).

⁴⁹ Printed in Cmd. 1627 of 1922, pp. 56-57.

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